

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC HEARING

+ + + + +

TUESDAY

JANUARY 22, 2008

+ + + + +

The Public Hearing convened in
Room 220 South, 441 4th Street, N.W.,
Washington, D.C., 20001, pursuant to notice
at 9:30 a.m., Ruthanne G. Miller,
Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

RUTHANNE G. MILLER, Chairperson
MARC D. LOUD, Vice Chairman
SHANE L. DETTMAN, Board Member (NCPC)
MARY OATES WALKER, Board Member

ZONING COMMISSION MEMBER PRESENT:

ANTHONY HOOD, Chairperson

OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY, Secretary
BEVERLEY BAILEY, Sr. Zoning Specialist
JOHN NYARKU, Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

PAUL GOLDSTEIN

MATT JESICK

JOHN MOORE

KAREN THOMAS

The transcript constitutes the
minutes from the Public Hearing held on
January 22, 2008.

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1 P-R-O-C-E-E-D-I-N-G-S

2 10:13 A.M.

3 CHAIRPERSON MILLER: Good morning.
4 this hearing will please come to order.

5 This is January 22, 2008, Public
6 Hearing of the Board of Zoning Adjustment for
7 the District of Columbia.

8 My name is Ruthanne Miller. I'm
9 the Chair of the BZA. To my right is Mr. Marc
10 Loud who is our Vice Chair and next to him is
11 Mr. Anthony Hood from the Zoning Commission.

12 To my left is Mary Oates Walker
13 and Shane Dettman on the Board and Ms. Lori
14 Monroe from the Office of the Attorney
15 General, Beverly Bailey from the Office of
16 Zoning and Mr. Clifford Moy will be joining us
17 and he's with the Office of Zoning as well.

18 Copies of today's hearing agenda
19 are available to you and are located to my
20 left in the wall bin near the door.

21 Please be advised that this
22 proceeding is being recorded by a court

1 reporter and is Webcast live. Accordingly, I
2 must ask you to refrain from any disruptive
3 noises or actions in the hearing room.

4 When presenting information to the
5 board, please turn and speak into the
6 microphone, first stating your name and home
7 address. When you're finished, please turn
8 your microphone off so that your microphone is
9 no longer picking up sound or background
10 noise.

11 All persons planning to testify
12 either in favor or in opposition are to fill
13 out two witness cards. These cards are
14 located to my left on the table near the door
15 and on the witness table.

16 Upon coming forward to speak to
17 the Board please give both cards to the
18 reporter sitting to my right.

19 The order of procedure for special
20 exceptions and variances is as follows:

21 First, statement and witnesses of
22 the applicant.

1 Second, government reports
2 including Office of Planning, Department of
3 Public Works, DDOT, etcetera.

4 Three, report of the Advisory
5 Neighborhood Commission.

6 Four, parties or persons in
7 support.

8 Five, parties or persons in
9 opposition.

10 Six, closing remarks by the
11 applicant.

12 Pursuant to Section 3117.4 and
13 3117.5 of our regulations, the following time
14 constraints will be maintained.

15 The applicant, persons and parties
16 except an ANC in support, including witnesses
17 60 minutes collectively.

18 Person in parties except an ANC in
19 opposition including witnesses 60 minutes
20 collectively.

21 Individual three minutes.

22 These time constraints to not

1 include cross examination and/or questions
2 from the Board. Cross examination of
3 witnesses is permitted by the applicant or
4 party.

5 The ANC within which the property
6 is located is automatically a party in a
7 special exception or variance case.

8 Nothing prohibits the Board from
9 placing reasonable restrictions on cross
10 examination, including time limits and limits
11 on the scope of cross examination.

12 The record will be closed at the
13 conclusion of each case except for any
14 material specifically requested by the Board.
15 The Board and the staff will specify at the
16 end of the hearing exactly what is expected
17 and the date when the persons must submit the
18 evidence to the Office of Zoning.

19 After the record is closed no
20 other information will be accepted by the
21 Board.

22 The Sunshine Act requires that the

1 public hearing on each case be held in the
2 open before the public. The Board may
3 consistent with its rules of procedure and the
4 Sunshine Act enter executive session during or
5 after the public hearing on a case for
6 purposes of reviewing the record or
7 deliberating on the case.

8 The decision of the Board in these
9 contested cases must be based exclusively on
10 the public record. To avoid any appearance to
11 the contrary, the Board requests that persons
12 present not engage the members of the Board in
13 conversation.

14 Please turn off all beepers and
15 cell phones at this time so as not to disrupt
16 this proceeding.

17 The Board will not consider any
18 preliminary matters. Preliminary matters are
19 those which relate to whether a case will or
20 should be heard today, such as a request for
21 postponement, continuance or withdrawal, or
22 whether proper and adequate notice of the

1 hearing has been given.

2 If you're not prepared to go
3 forward with the case today or if you believe
4 that the Board should not proceed now is the
5 time to raise such a matter.

6 Does the staff have any
7 preliminary matters?

8 MS. BAILEY: Madam Chair, Members
9 of the Board, to Everyone, good morning.

10 Staff does not have any
11 preliminary matters.

12 CHAIRPERSON MILLER: In which case
13 let's proceed with the agenda and would all
14 individuals wishing to testify today please
15 rise and take the oath.

16 And Ms. Bailey will administer it.

17 MS. BAILEY: Would you please
18 raise your right hand. Do you solemnly swear
19 or affirm that the testimony that you will be
20 giving today will be the truth, the whole
21 truth and nothing but the truth?

22 Thank you.

1 CHAIRPERSON MILLER: In looking at
2 the cases on the agenda today, it appears that
3 Case No. 17710 might move very quickly and I'm
4 wondering if the parties are here in that
5 case, whether they would come forward and we
6 would take that case first. And the rest of
7 the agenda will be as scheduled with 17705
8 going second and 17707 going third.

9 Good morning.

10 MS. SULLIVAN: Good morning.

11 CHAIRPERSON MILLER: Why don't you
12 introduce yourselves for the record.

13 CHAIRPERSON MILLER: I'm Elaine
14 Sullivan. I live at 3810 W Street, NW.

15 MR. SULLIVAN: I'm Richard
16 Sullivan, same address.

17 CHAIRPERSON MILLER: Okay. You
18 know, as is our procedure, we've reviewed your
19 case, all the papers in your case. And I
20 called you to come forward first because your
21 case seems extremely straightforward. The
22 full record in this case, it seems that you've

1 met the specifics in the spirit of 223.

2 I want to just see if there's
3 anything you want to add to the record at this
4 point?

5 MR. SULLIVAN: We did submit a
6 fourth letter of support from our neighbors so
7 that the neighbors on both sides of us, two
8 doors on either side, have supported it and I
9 gave it to Ms. Bailey a few minutes ago.

10 So, now we have full support of
11 our neighbors as well as the ANC.

12 CHAIRPERSON MILLER: Okay. And
13 that is from Peter and Lisa McCluskey?

14 MR. SULLIVAN: Yes.

15 CHAIRPERSON MILLER: 3806 W
16 Street. Okay. We've just received that.

17 Anything else?

18 MR. SULLIVAN: Only if you have
19 questions, if you want us to go through the
20 details or not?

21 CHAIRPERSON MILLER: No. I think
22 that we don't need to go through the details.

1 You did that very well in the application.

2 Do Board members have questions
3 for the applicant?

4 Why don't we just see if the
5 Office of Planning has anything Mr. Moore
6 wants to add?

7 MR. MOORE: Good morning, Madam
8 Chair and Board and Happy New Year.

9 The Office of Planning will stand
10 on the record on this application in support.

11 CHAIRPERSON MILLER: Any questions
12 for Office of Planning?

13 Okay. And anybody else here to
14 testify in support or opposition of this
15 application?

16 And is the ANC here in this case?

17 Okay. We thought this would go
18 pretty quickly. That's why we brought you up
19 here. It appears that your rear additional
20 does meet all the elements of the 223 and it's
21 compatible with the neighborhood. It's a very
22 minor addition. I understand it's going eight

1 feet back and the only reason you're here is
2 because of the eight inches height which puts
3 you into the lot occupancy requirement.

4 Doesn't affect your neighbors
5 privacy. It doesn't affect your neighbors
6 light and air. And it's consistent with the
7 pattern of other rear additions in the back
8 along the alley.

9 The ANC voted unanimously to
10 support. Your surrounding neighbors support.
11 No opposition. And I think we need to say too
12 much more unless they have anything to add?

13 Okay. Then I would move to
14 approve Application No. 17710 of Richard and
15 Elaine Sullivan pursuant to 11 DCMR 3104.1 for
16 a special exception to allow a rear deck
17 addition to an existing one-family row
18 dwelling under Section 223, not meeting the
19 rear yard requirements at premises 3810 W
20 Street, NW.

21 Do I have a second?

22 VICE CHAIRMAN LOUD: Second, Madam

1 Chair.

2 CHAIRPERSON MILLER: Further
3 deliberation?

4 All those in favor say aye.
5 (AYE)

6 CHAIRPERSON MILLER: All those
7 opposed?

8 All those abstaining?

9 And would you call the vote
10 please?

11 MS. BAILEY: Madam Chair, the vote
12 is recorded as five, to zero to zero to
13 approve the application.

14 Mrs. Miller made the motion, Mr.
15 Loud seconded, Mr. Hood, Mr. Walter and Mr.
16 Dettman support the motion.

17 CHAIRPERSON MILLER: Thank you
18 very much. And this will be a summary order
19 as there is no opposition in this case.

20 MS. BAILEY: Thank you.

21 CHAIRPERSON MILLER: And that
22 means you should be able to get your order

1 very quickly this week.

2 MS. SULLIVAN: Thank you very
3 much.

4 MR. SULLIVAN: Thank you, very,
5 very much.

6 CHAIRPERSON MILLER: You're
7 welcome. Good luck with that.

8 Okay. We're ready for the next
9 case when you are, Ms. Bailey.

10 MS. BAILEY: Application No. 17705
11 of Leon and Heather Kafele, pursuant to 11
12 DCMR 3104.1 for a special exception to allow
13 a third story addition and roof deck to an
14 existing one-family row dwelling under Section
15 223, not meeting the lot occupancy
16 requirements of Section 43 and nonconformance
17 structure requirements, sub-section 2001.3.

18 The property is located at 906 G
19 Street, SE. It is also known as Square 949,
20 Lot 805. The property is zoned R-4.

21 There are two matters associated
22 with this case, Madam Chair, that the Board

1 may want to be aware of.

2 The first of which the applicant
3 had requested a waiver of the 15-day
4 requirement for posting the property. It was
5 posted for 12 days.

6 And, secondly, there are three
7 requests for party status in opposition to the
8 application.

9 And just as a note, earlier this
10 morning I had put a Sun Study in front of each
11 Board member that is associated with this
12 case.

13 CHAIRPERSON MILLER: And, Ms.
14 Bailey, who is the Sun Study from? Do we
15 know?

16 MS. BAILEY: It was from the
17 applicant.

18 CHAIRPERSON MILLER: Okay. All
19 right. We'll get into that when we get into
20 this case.

21 So, why don't we start with
22 introductions.

1 MS. FOWLER: I'm Jennifer Fowler
2 of 1742 D Street, SE. I'm the architect.

3 MS. KAFELE: Good morning. I'm
4 Heather Lamberg Kafele of 906 G Street, SE,
5 and I'm the applicant.

6 MR. FOWLER: I'm Mike Fowler of
7 1742 D Street, SE, also the architect.

8 CHAIRPERSON MILLER: Okay. I
9 think we have three preliminary matters if I'm
10 not mistaken in looking at the file. But the
11 first thing, the posting, the second thing a
12 request for a waiver to submit new materials
13 in less than 14 days prior to the hearing and
14 then the party status applicant. Okay.

15 Why don't we start with posting.

16 I would just say it was posted 12
17 days instead of 15?

18 MS. FOWLER: Correct.

19 CHAIRPERSON MILLER: Okay. Do you
20 want to address how the community had notice
21 otherwise?

22 MS. FOWLER: Yes. Just to explain

1 with the 14 days as far as the new drawings
2 and everything. We were working with historic
3 to -- and we actually wound up building a mock
4 up on the roof. And the staff at historic was
5 not able to come visit the property until the
6 day after the deadline for filing new
7 materials. And so we kind of were in a crunch
8 trying to get all that revised and in that we
9 kind of failed to get the sign up. So, it was
10 really an oversight on my part. But we were
11 focused on other things unfortunately.

12 But we did go to the ANC in
13 December for both the planning and zoning
14 committee meeting and the full ANC. And the
15 neighbors were first shown the plans back in
16 September -- in the fall. So, they've been
17 aware of the project for quite some time. And
18 we did get a lot of the neighbors' signatures
19 at that time including a petition of some
20 other neighbors. So, adjacent neighbors and
21 then other neighbors. And we do have a couple
22 that are in opposition but they had been

1 notified earlier on of the project.

2 So, we feel that the neighbors
3 that are impacted have been aware of the
4 project for quite sometime.

5 CHAIRPERSON MILLER: Okay. And
6 our standards are to cause no prejudice to any
7 party. I think that meets the requirements.

8 Does anybody have a problem with
9 that?

10 Okay. So, we'll grant you waivers
11 on those.

12 MS. FOWLER: Okay.

13 CHAIRPERSON MILLER: Okay. Then
14 we have some applicants for party status and
15 I'm going to see if they are here today.

16 One is a Susan Sherman. Would you
17 come forward please?

18 Sarah Grayton. Sarah Grayton is
19 not here right now? Okay.

20 Lisa Mages. Okay.

21 Yes. Come on forward.

22 MS. MAGES: Where do you want us

1 to come forward?

2 CHAIRPERSON MILLER: Do you want
3 to sit together at the table?

4 Okay. We deal with as a
5 preliminary matter because if you become a
6 party you have -- there are different ways you
7 would participate than as just a person who
8 wants to testify in the case.

9 And a lot of people who come
10 forward applying for party status believe that
11 they need party status to participate in the
12 case, period, which is not the rule.

13 In general, we have two types of
14 participation for the public. One is as a
15 party, in which case we're going to see if you
16 meet the standards of party status under the
17 regs. And if you do, then you can have full
18 participation in the case with cross
19 examination and submittal of evidence after,
20 you know, whenever, just like a party.

21 Sometimes members of the community
22 just want to give their testimony, put in

1 evidence, you know, a one-time thing and that
2 doesn't require scrutiny by the Board
3 whatsoever or the other parties.

4 So, first of all, I need you to
5 each identify yourself on the record, your
6 name and address and then we can explore this.

7 MS. SHERMAN: I'm Susan Sherman
8 and my address is 536 9th Street, SE.

9 MS. MAGES: My name is Lisa Mages.
10 My address is 534 9th Street, SE.

11 CHAIRPERSON MILLER: Okay. First
12 of all, if you are seeking party status
13 according to your regulations you would need
14 to show that your interest are significant,
15 distinctly or uniquely affected in character
16 or kind by the zoning relief that's being
17 requested, different from those in the general
18 public.

19 So, I guess I want to ask you
20 first of all, if you're really interested in
21 party status or if you just want to testify in
22 the case?

1 MS. SHERMAN: I'm interested in
2 party status and I believe I am adversely
3 affected more so than the general public. And
4 I believe that in the application for party
5 status that we filed -- I stated the reasons
6 why I thought that.

7 CHAIRPERSON MILLER: Okay. We'll
8 get into that, but I just want to make sure
9 before I even start getting into that whether
10 you're both interested in party status?

11 MS. MAGES: Yes. I am as well.

12 CHAIRPERSON MILLER: Okay. Okay.
13 Let me just ask the applicant, is
14 there an objection to granting party status of
15 these individuals?

16 MS. FOWLER: No. No.

17 CHAIRPERSON MILLER: Okay. Then I
18 just want to -- I think the Board would just
19 like to be clear about the specific impacts on
20 your property, just generally without making
21 your whole case.

22 Let's start with Ms. Sherman,

1 you're first here.

2 Your concerns in this case, you're
3 located behind the property. Is that right?

4 MS. SHERMAN: I'm located -- the
5 back of my -- the Kafele's -- the side of the
6 Kafele's house runs across the back of my
7 house. And there is just a narrow alley way
8 between the side of their house and the entire
9 back of my house.

10 CHAIRPERSON MILLER: Okay. And
11 you're concerned about views?

12 MS. SHERMAN: Views and light.

13 CHAIRPERSON MILLER: And light.
14 And privacy or no?

15 MS. SHERMAN: That also.

16 CHAIRPERSON MILLER: Okay. Those
17 are typical 223 concerns/impacts.

18 Okay. And Ms. Grayton -- would
19 you explain where your house is in relation to
20 the applicant and then I'll ask you another
21 question after that.

22 MS. MAGES: I'm Ms. Mages.

1 CHAIRPERSON MILLER: Okay, Ms.
2 Mages.

3 MS. MAGES: I share a property
4 line with the Kafele's. My deck is on the
5 same property line as their backyard. And our
6 houses sit at right angles to one another.

7 So, I am concerned about the
8 effects on my -- on light and the view and
9 privacy.

10 CHAIRPERSON MILLER: Okay. Any
11 questions by Board members?

12 Okay.

13 MR. HOOD: Madam Chair?

14 CHAIRPERSON MILLER: Yes.

15 MR. HOOD: Ms. Sherman in her
16 submittal for party status, number 6, she
17 talks about when she purchased the property
18 which is in the historic district. My light
19 and views, our enjoyment would be protected.
20 She said I relied on this.

21 You relied on it being a historic
22 district or what did you rely on? I'm not

1 sure. Where did you get that from?

2 MS. SHERMAN: Because of the
3 closeness of the property I was concerned as
4 to -- if there would be encroachments. And at
5 the time that I purchased the property, I had
6 a conversation not only with the seller but
7 with the real estate agent as to how much
8 flexibility there would be within the
9 neighborhood. And I was told apparently
10 wrongly that because it was an historic
11 district that -- that changes were really not
12 made very often. And so I --

13 MR. HOOD: The historic district
14 does bring another element at times, but I
15 just don't -- anyway.

16 MS. SHERMAN: And so I've enjoyed
17 the property as it was for over 20 years.

18 MR. HOOD: All right. Thank you.
19 Thank you, Madam Chair.

20 CHAIRPERSON MILLER: Any other
21 questions? Okay.

22 I would suggest that these two

1 party status applicants be granted party
2 status and that they -- they -- there houses
3 are situated close to the applicant's and they
4 have shown that they will be impacted
5 differently from the general public certainly.
6 And they've raised concerns related to the
7 relief being sought are concerned under 223,
8 light, air, privacy.

9 So, do others feel differently?
10 Okay.

11 Then you're granted party status
12 and you can go back into the audience area and
13 we'll call you when it's your turn to
14 participate in anyway.

15 MS. SHERMAN: Excuse me, Madam
16 Chair.

17 I've never been at one of these
18 meetings before. Do we get a chance to ask
19 the Board questions and do we get a chance to
20 ask the applicant questions?

21 CHAIRPERSON MILLER: You don't
22 really -- nobody -- the Board doesn't get

1 interrogated on this.

2 MS. SHERMAN: No, but --

3 CHAIRPERSON MILLER: You're asking
4 the Board a question right now.

5 MS. SHERMAN: Questions about
6 procedures.

7 CHAIRPERSON MILLER: Yes. Yes.
8 Right. Anybody can ask the Board questions
9 about that so if you don't understand anything
10 or whatever, that's absolutely fine. And I'm
11 just thinking that -- I'm not sure what you
12 have.

13 You know, as a party, for
14 instance, you're going to have a chance to ask
15 Office of Planning questions and just thinking
16 ahead I'm wondering, do you have a copy of the
17 Office of Planning report?

18 MS. SHERMAN: No. We do not.

19 CHAIRPERSON MILLER: Okay. Than
20 I'm going to ask Ms. Bailey if she can provide
21 that to you in the meantime.

22 I assume -- do you have a copy of

1 the application?

2 MS. SHERMAN: I believe we do.

3 CHAIRPERSON MILLER: Okay.

4 Because you'll have a chance to, you know, ask
5 questions of the applicant as well.

6 Any other questions? I mean,
7 you're free to ask questions.

8 MS. SHERMAN: Well, I was
9 wondering, does this Board do they make
10 decisions right here or do they go back and
11 think about things and -- how does it work?

12 CHAIRPERSON MILLER: Okay. Since
13 this Board acts very transparently and it
14 depends on the case. If we hear the case in
15 full today and our Board members are convinced
16 that they're ready to issue a decision, then
17 we would issue the decision on the record
18 explaining why we find a certain way.

19 For instance, like I just said.
20 We found that you should be granted party
21 status because, you know, you live nearby and
22 you're raising issues that are relevant to

1 223. So, we will do the same thing with
2 respect to the merits of this case. It just
3 depends if the Board is not sure of has some
4 questions or wants to look at documents
5 further, we will postpone it for a decision to
6 usually our next decision meeting. And we'll
7 tell you when that is.

8 MS. SHERMAN: And is there any
9 right of appeal of any decision that the Board
10 makes?

11 CHAIRPERSON MILLER: Yes. Any
12 party can file a motion for reconsideration
13 after - -within -- well, file a motion for
14 reconsideration after we issue a written
15 order.

16 MS. SHERMAN: I see. Thank you.

17 CHAIRPERSON MILLER: Okay. I just
18 want to raise one other.

19 We do have this party status
20 application that we need to decide on from Mr.
21 Sara Grayton and she is not here. And so,
22 therefore, she can't really participate as a

1 party. So, that's one reason I'm not -- the
2 biggest reason, perhaps, not to grant party
3 status. Though, in some cases, someone who is
4 not here, sometime is so well briefed in a
5 case that they submit something in writing, in
6 which case they could participate. But that's
7 not the case here. She also raises a very big
8 issue that, you know, about security that, you
9 know, she can't address is she's not here.

10 Anyway, so I believe she didn't
11 make her case that she's impacted in a way
12 that would be relevant to 223.

13 So, what we will do is take her
14 party status application and keep it in the
15 record and consider it as her testimony.

16 Okay. I see by the consensus of
17 the Board that's how we will be proceeding.

18 CHAIRPERSON MILLER: Okay. So, I
19 think that does it with the preliminary
20 matters.

21 Ms. Fowler, before you just start
22 your case could you also explain or just let

1 us know the relevance of the new Sun Shade
2 Study that was presented to us this morning?

3 MS. FOWLER: Yes. The Sun Study
4 that you have in front of you is a revision of
5 the previous Sun Study based on modifications
6 to the design, that happened during the
7 process with historic. And I can explain that
8 further in my testimony.

9 CHAIRPERSON MILLER: Right. Okay.
10 So, at which point I think we're
11 ready to have you proceed on your case.

12 MS. FOWLER: Okay. All right.
13 So, I know you're all familiar
14 with the project but I just wanted to note a
15 couple of points for the record, that we are--
16 there's an existing mud room on the first
17 floor at the back that's a one-story --

18 CHAIRPERSON MILLER: Sorry. An
19 existing what?

20 MS. FOWLER: An existing rear kind
21 of enclosed porch at the back that we are
22 going to demolish. So, we're -- with this

1 project we are actually reducing the lot
2 coverage from 71.8 percent to 68.3. And we're
3 also increasing the rear yard.

4 Currently, we have a 17 foot rear
5 yard which is nonconforming. So, we're
6 actually bringing the rear yard into
7 conformity with the 22-foot setback.

8 So, just that you understand that
9 that -- what we're doing there.

10 We are proposing the third floor
11 edition which is going to increase the height
12 of the structure, a maximum of 4 foot 11 --
13 maximum. And so we're going from 29 foot 10,
14 I believe it was to the maximum now is 34 foot
15 9 which is well below the 40 feet allowed in
16 an R-4 District.

17 So, I just wanted to make it clear
18 that we're below the maximum but we are asking
19 for -- for zoning -- for a special exception
20 because of the lot occupancy because we're
21 still nonconforming and because of the
22 nonconforming side court -- open court at the

1 rear.

2 Just to give you an update on the
3 history of the project.

4 We've put in the plans, I guess,
5 it was back in August, something like that.
6 And we've started working with Historic
7 Preservation in December. And we did a couple
8 of flag tests to make sure that it wasn't
9 visible. Their primary concern was that it
10 not be visible from the front, from G Street.

11 So, we did have a site visit from
12 Jonathan Mellon and Paul Goldstein from Office
13 of Planning. Jonathan Mellon from Historic
14 Preservation. And we did a flag test.

15 And then after that, they
16 requested that we build a mock up. So, you'll
17 see in your packet behind the Sun Study,
18 actually there is a photograph of the mock up
19 that was built from the alley so that you can
20 get a sense of the massing of the proposed
21 structure.

22 So, as a result of working with

1 Historic Preservation and the visit that they
2 did and he approve the mock up. Our height
3 has changed. The original height for the main
4 roof was 34 foot 5 inches. And now in our new
5 proposal, the revised plans that you have with
6 the bubbles around them, the main roof is now
7 32 foot 9. So, from 34.5 to 32.9.

8 The original plan had the back
9 part of the roof was bumped up higher than the
10 main roof. What we found with the mock up is
11 that we could actually see all the way back
12 because of the space between the houses. So,
13 we had to eliminate that bump up.

14 So, instead of that we've done
15 like a clear story structure which kind of
16 comes up with windows. And that height, the
17 back originally was going to be 36 feet and
18 the proposed clear story windows now are at 34
19 foot 9.

20 So, we've shrunk the edition in
21 height substantially. In fact, what we had to
22 do is --we're going to actually lower the

1 ceiling on the second floor. Currently, the
2 ceiling in the second floor is 9 foot 8
3 inches. So, it's almost 10 feet. What we're
4 going to have to do is drop the ceiling on the
5 inside to 8 foot 4 and 8 foot 4 allows us to
6 keep the trim above the door -- the doors and
7 windows. But it brings it down low enough so
8 that our floor structure for the third floor
9 comes down and then we are only going to have
10 a seven foot ceiling on the third floor with
11 the clear story structure coming up above
12 that.

13 And you can see it in the sense
14 that if you look -- turn to the second -- the
15 second part of the package. There's this
16 thing and then the proposed. You can see the
17 side of the structure, as well as with the
18 photograph of the mock up and see what is
19 visible.

20 And in the photograph of the mock
21 up that back wall it only -- did you find the
22 photo for that? This is what -- sorry. It's

1 at the very, very back of the --

2 CHAIRPERSON MILLER: Oh, okay.

3 MS. FOWLER: -- Sun Study.

4 That back wall is from the roof
5 line back there. It only comes up about four
6 feet. So, that's as high as we're going to go
7 and it's level with the rest of the mock up
8 that you can see that's kind of turning the
9 corner.

10 Is that clear? Do you have any
11 questions about what you're looking at here?

12 This is standing in the alley
13 looking at the back of the house.

14 CHAIRPERSON MILLER: I'm sorry.
15 Can I just get my bearings on that.

16 MS. FOWLER: Okay.

17 CHAIRPERSON MILLER: The back of
18 the house isn't where the sun is on that part
19 of the wall? Is that the --

20 MS. FOWLER: That's the dog leg.
21 That's the side court that you're seeing there
22 and then where it's dark in the back, that's

1 the back wall that's facing west. So, this is
2 the east side. I'm sorry, this is the north--
3 no. This is opposite.

4 This is the east side and this is
5 the north side. So, you're standing in the
6 alley kind of looking past these garages at an
7 angle towards that back corner.

8 MR. HOOD: It's already taking
9 place? The construction has already started?

10 MS. FOWLER: No. No. No. It's
11 purely a mock up.

12 MR. HOOD: Oh, okay.

13 MS. FOWLER: We basically just had
14 the contractor put some 2 by 4's up and I said
15 this was as a result of, you know, dealing
16 with Historic Preservation. They wanted to
17 actually see a structure in the place of the
18 proposed structure.

19 MR. HOOD: Okay.

20 MS. FOWLER: So, no. We've not
21 begun construction.

22 CHAIRPERSON MILLER: Okay. Just

1 as a lay person looking at this. On the north
2 side, is it higher than on the east side? Or
3 is it just --

4 MS. FOWLER: It's not, it's level.

5 CHAIRPERSON MILLER: It's level.

6 Okay.

7 MS. FOWLER: It is level. Yes.

8 It's hard to tell from the picture.

9 They didn't connect it. They
10 basically built the front wall facing the
11 south. They built off the curve and then they
12 built the back wall. So, it's not actually
13 connecting because originally we just built
14 the front and the curve because of Historic
15 Preservation. And then we ended up building
16 the back wall because Ms. Mages and her
17 husband requested that we build it so that
18 they could see from their back deck what it
19 was going to look at. So, we did the
20 additional wall just on Saturday -- just this
21 past weekend to see what the impact would be
22 on that.

1 And they indicated that if it were
2 to stay at this level and not any higher and
3 they were going to keep their eye on it, that
4 they were okay with the proposal. That was
5 the last time we spoke that they were --

6 CHAIRPERSON MILLER: Who is that
7 you're referring to?

8 MS. FOWLER: Lisa Mages and her
9 husband, Richard McCandless.

10 VICE CHAIRMAN LOUD: Quick
11 question, Madam Chair.

12 How much of what we're seeing as
13 the mock up will be window space?

14 MS. FOWLER: This back wall that's
15 facing north will have high windows because
16 it's a bathroom. So, there's going to be a
17 vanity below and then high clear story
18 windows, you know, tall windows. So, from
19 that back well there's no increase in --
20 decrease in privacy to the adjacent
21 properties. They will not be able to look
22 down into the backyard.

1 VICE CHAIRMAN LOUD: And is there
2 a different on what you were describing as the
3 east presentation in terms of the window
4 space?

5 MS. FOWLER: I'm sorry?

6 VICE CHAIRMAN LOUD: I thought
7 that what you just covered was how the windows
8 would present on what you described as the
9 north. I guess, the rear of the property.
10 But looking at the mock up there are also some
11 two by four's on the east side where the light
12 now shows.

13 MS. FOWLER: Yes.

14 VICE CHAIRMAN LOUD: And will the
15 window -- will there be a window set up on
16 that side and, if so, is it different from
17 what you just described for the north side?

18 MS. FOWLER: Okay. The -- there
19 will not be any windows along the dogleg which
20 is this -- the sun lit wall that you see
21 there.

22 We are incorporating some possibly

1 some translucent panels but nothing that would
2 actually -- you'd actually look at.

3 When you get to the curved section
4 which is closer to the front of the addition,
5 that's where we're going to have a lot of the
6 glass. And it's actually opening out onto a
7 little deck there. But that's all kind of
8 views towards the front, towards G Street and
9 on -- towards the -- you know, the south --
10 south and east.

11 And there will be no windows on
12 the party wall to the west. That's completely
13 windowless because it's a fire-rated wall.
14 It's a property line. the property line is
15 right there.

16 CHAIRPERSON MILLER: I just want
17 to follow up so that I understand.

18 On the north side, I thought that
19 you were explaining that there were going to
20 be some windows there.

21 MS. FOWLER: Yes.

22 CHAIRPERSON MILLER: But that they

1 wouldn't affect the privacy of --

2 MS. FOWLER: That's correct.

3 CHAIRPERSON MILLER: So, it's
4 behind it. Why is that that there are
5 windows?

6 MS. FOWLER: The north side is the
7 short end. The site plan is turned so just
8 make sure you -- and the elevation for that
9 wall has a -- like I said, it's going to be a
10 bathroom. So, if you look at the floor plan
11 there are going to be sinks there and a mirror
12 and then the windows are high.

13 So, on that north side facing
14 their backyard, and you can see that on Sheet
15 A-8, those are high windows. They are up at--
16 so that the ceiling is about seven, so they're
17 up at about five feet.

18 CHAIRPERSON MILLER: Okay. So --
19 so, I get it now. So, it's too high for the
20 applicant to be looking out the window at the
21 neighbors, but it will let light in.

22 MS. FOWLER: It will let light in.

1 Right.

2 CHAIRPERSON MILLER: All right.

3 Thank you.

4 MS. FOWLER: And, you know, they
5 may or may not be fixed or operable. We
6 haven't even gotten to that level of detail
7 yet. But they are high windows.

8 And then the panels on the corner
9 are just translucent panels that you can't see
10 through, but are actually building material
11 that would -- you'd have siding below the
12 windows and then to the side you would have
13 translucent panels that turn the corner. And
14 they would let a little bit of light through
15 at night. It would a little bit of a glow to
16 it but you wouldn't have any view in or out.

17 MEMBER DETTMAN: Looking at the
18 photograph of your mock up, the mock up
19 doesn't indicate the additional two foot clear
20 story. Right?

21 MS. FOWLER: No. It does not.

22 MEMBER DETTMAN: Okay. And it's

1 setback a little bit off the rear wall. Is
2 that correct?

3 MS. FOWLER: It's set back a
4 couple feet from the rear wall. It's set back
5 four feet from all the other walls.

6 MEMBER DETTMAN: Okay. And I
7 think -- I believe heard the parties to the
8 case characterize what would be the west side
9 of your property as an alley. Is there an
10 alley there?

11 MS. FOWLER: No. It's actually
12 the rear yards of these properties that abut
13 our property on the west side. They all just
14 have very, very shallow backyards.

15 The first one that's right on the
16 corner, I think they about six feet and I
17 believe the other neighbors -- I didn't
18 actually measure back there, but are
19 approximately five foot backyards. So, it's
20 just an usual situation in that our -- the
21 applicant's property butts up against these
22 houses that have extremely small backyards.

1 MEMBER DETTMAN: Okay.

2 MS. FOWLER: And this is actually
3 a party wall, believe it or not. So, they
4 actually share that wall with these neighbors.
5 The party wall runs along the west side.

6 MEMBER DETTMAN: It's not an alley
7 in the --

8 MS. FOWLER: There's no alley.

9 MEMBER DETTMAN: Finally, have you
10 presented the plans to the neighbor to your
11 west? Or to the east, sorry.

12 MS. FOWLER: Yes. 908 G Street
13 has been notified of the project. It's
14 somebody that lives out of state and it's a
15 rental unit and we did send them materials and
16 we have not heard anything back and it's been
17 quite sometime.

18 So, they've been notified and
19 obviously don't have any -- any opinion about
20 it from what we understand.

21 CHAIRPERSON MILLER: Do we have
22 anything in the record that shows the relation

1 of the mock up to the east side? I mean, not
2 the east side. The west side you're talking
3 about with the party wall and the shallow
4 neighbor backyards that you were talking
5 about? We don't have a picture of that.

6 MS. FOWLER: You can see in the
7 Sun Study if you look at the Sun Study. It
8 gives you kind of a nice view of if you're
9 kind of floating out in the alley somewhere
10 and you can see the relationship and you'll
11 see there are two packets in there. One is
12 existing and one is proposed.

13 And if you put them side by side,
14 you can see the -- for instance, we have the
15 first one it's spring and fall. And you can
16 see the comparison of the two. But you can
17 also see how -- how tight the space is back
18 there.

19 MEMBER DETTMAN: Would you have
20 any idea of what's the distance between the
21 west side of -- the west side of your house to
22 the rear wall of the houses on 9th Street?

1 MS. FOWLER: I think they're --

2 MEMBER DETTMAN: Approximately?

3 MS. FOWLER: -- they range between
4 five and six feet. It's definitely a unique
5 alley, very dense.

6 Shall I go ahead and address the
7 light and air concerns or do you have further
8 questions regarding the mock up?

9 CHAIRPERSON MILLER: I think it
10 would be good -- well, perhaps, when you
11 address the light and air you can maybe help
12 us visualize it using the mock up so that --

13 MS. FOWLER: Okay.

14 CHAIRPERSON MILLER: -- you know,
15 because I'm looking at it -- some of which
16 you're saying is very helpful, different
17 pieces. But I'm looking at the mock up and
18 then I'm wondering, okay. How far away are
19 the houses behind this, you know, I think are
20 concerned about light and air.

21 MS. FOWLER: How far away --

22 CHAIRPERSON MILLER: You know,

1 where -- I'm sure that the party status
2 applicants will also perhaps address where
3 they are in relation to the mock up.

4 MS. FOWLER: Okay.

5 CHAIRPERSON MILLER: Okay.

6 MS. FOWLER: Yes. So, okay.

7 We'll start with -- I'll start with 908 G
8 Street which is the house immediately to the
9 east.

10 That house, as you said, we
11 haven't had any neighbor opposition from that
12 side. But we feel like that -- they are not
13 being impacted in terms of light and air
14 because of the orientation of the houses.

15 The proposed edition won't block
16 any additional light and it is set back. At
17 the front it's set back almost 15 feet from
18 the existing structure at 908 G Street.

19 So, we don't feel like there's
20 really any impact on that property.

21 CHAIRPERSON MILLER: Okay. Will
22 you do me a favor?

1 MS. FOWLER: Sure.

2 CHAIRPERSON MILLER: Using the
3 mock up, just say where is this house --

4 MS. FOWLER: Okay.

5 CHAIRPERSON MILLER: -- that
6 you're talking about? 908 G Street?

7 MS. FOWLER: Yes. 908 G Street is
8 the gray house, if you're looking at our
9 project to the left.

10 CHAIRPERSON MILLER: Okay.
11 Perfect.

12 MS. FOWLER: So, because of the
13 orientation, the sun coming up in the east,
14 none of the morning light is blocked.

15 By the time it comes around to the
16 afternoon, the shadow that's cast by the
17 addition is beyond the house at 908 G. We
18 didn't find there was any impact on that
19 house.

20 In terms of privacy, we don't have
21 any windows along that dogleg there where it
22 is the closest to the neighbor. And then where

1 we do have windows along the curve or the
2 angled wall, we don't feel like there's really
3 any additional view into their property
4 because of the height of the parapet. So,
5 it's going to be kind of -- almost a courtyard
6 feel up there.

7 So, there's no additional view,
8 light or air impact.

9 CHAIRPERSON MILLER: Okay. You
10 know, I've been on this Board for awhile, but
11 I'm a lawyer, not an architect. And we have
12 two other members of the Board who are lawyers
13 also and then the closest we have to an
14 architect is, I guess, Mr. Dettman.

15 So, you know, that's why I'm
16 saying it's useful if you point. Like if
17 you're just saying, you know, about the
18 parapet and this and that. I mean, those are
19 all terms that are talked about here. But if
20 you can point to that on this mock up -- not
21 the mock up. On the Sun Study --

22 MS. FOWLER: Okay.

1 CHAIRPERSON MILLER: -- it just
2 will be very easy for us to know what you're
3 talking about. Otherwise we're kind of like
4 looking and guessing.

5 MS. FOWLER: Okay.

6 CHAIRPERSON MILLER: So, could you
7 talk about that one more time just pointing
8 and showing the view/angles of what you're
9 talking about an dhow a parapet would block it
10 or whatever you were saying?

11 MS. FOWLER: Okay. Okay.

12 So, this is 908 G here. And this
13 is the proposed project.

14 The sun comes up in the east which
15 is on this side. And it comes up and over and
16 then it comes back down this way.

17 So, this house is getting full
18 sunlight up until the afternoon hours when
19 anything that's blocked was already blocked.
20 There's no additional sun blockage on that
21 side.

22 MS. KAFELE: And you can see that

1 if you compare it to the other sheet.

2 MS. FOWLER: Yes. There's no
3 change to that property.

4 In terms of the air. This
5 additional is set back quite a bit from their
6 house. From this wall to this wall back here
7 at the front is about 14 feet, 10. Almost 15
8 feet. So, we feel like there's enough of a
9 setback there that it's not impacting that
10 property.

11 And in terms of views, privacy --
12 there are only windows along this curve here
13 and there's no windows along here.

14 So, when we do introduce windows
15 facing 908 G Street they're set back from the
16 edge of the roof. So, this is the edge of
17 roof. We've brought it back and this is also
18 as a result of working with Historic and
19 pushing that back as far as we could so that
20 it wasn't visible.

21 Does that help?

22 CHAIRPERSON MILLER: There are

1 windows in this part, the first section that's
2 on top of the existing house? Or not?

3 MS. FOWLER: There are windows
4 facing the front, which is facing south, which
5 don't add -- you know, they're not looking
6 onto any neighbors. And then there are
7 windows facing east that are along the angled
8 wall but like I said, they're set back several
9 feet from the parapet wall.

10 MS. KAFELE: Even in our existing
11 house right now, in the original, on the
12 second floor, you don't see them on here. We
13 have all windows there so we already, you
14 know, if we opened our shades could look into
15 their property.

16 CHAIRPERSON MILLER: Great. Okay.

17 VICE CHAIRMAN LOUD: Before you go
18 further just a quick clarification for my
19 notes later on when we deliberate on this and
20 I'm looking at your proposed sun/shade
21 conditions. And I just want to label on my
22 notes thee properties here.

1 MS. KRESS: Okay.

2 VICE CHAIRMAN LOUD: If you could
3 give me the address?

4 MS. FOWLER: So, this first house
5 that you're seeing the side of is 534 9th
6 Street, SE.

7 VICE CHAIRMAN LOUD: That's Mrs.--

8 MS. FOWLER: Mages.

9 VICE CHAIRMAN LOUD: Ms. Mages.
10 Okay.

11 MS. FOWLER: And then the second
12 house, the one next to that is 536.

13 VICE CHAIRMAN LOUD: And that's
14 Ms. Sherman.

15 MS. FOWLER: Ms. Sherman.

16 VICE CHAIRMAN LOUD: Okay.

17 MS. FOWLER: And then there are
18 two other houses beyond that that are -- it's
19 538 and 540 and we do have signatures of
20 support from those two neighbors.

21 VICE CHAIRMAN LOUD: Okay.

22 MS. FOWLER: And those are in the

1 record.

2 VICE CHAIRMAN LOUD: And then to
3 follow up Madam Chair's question, the -- the
4 windows that are elevated on that top floor
5 that are going to be too high to see out of --

6 MS. FOWLER: Right.

7 VICE CHAIRMAN LOUD: -- those are
8 facing 534 and 536?

9 MS. FOWLER: No. There are no
10 windows facing the side.

11 VICE CHAIRMAN LOUD: Okay.

12 MS. FOWLER: Because that's a
13 party wall. So, if you look at the plan this
14 wall here. It's a two-hour rated wall. It's
15 a fire wall.

16 VICE CHAIRMAN LOUD: Okay.

17 MS. FOWLER: And they're on their
18 side. So, the only windows are at the back --
19 facing their backyard and at this angled wall
20 facing 908 G Street.

21 VICE CHAIRMAN LOUD: I see. Okay.

22 MS. FOWLER: And at the front

1 facing G Street. So, there are no windows on
2 that side.

3 CHAIRPERSON MILLER: Just to
4 clarify and I think you know you are
5 addressing this really well about the views.
6 First of all, there were already views from
7 the second floor bathroom. I mean, the second
8 floor, but that was my question. About the
9 bathroom that you were talking about before
10 where the windows are too high to even look
11 out of. Are they the same windows that you're
12 talking about now?

13 MS. FOWLER: Yes. Both. That's
14 in the plan. You see the master bathroom at
15 the back and the windows are along the back
16 wall which are facing the north and they're
17 high.

18 VICE CHAIRMAN LOUD: Thank you.

19 MEMBER DETTMAN: Quickly could you
20 describe the materials that you're using on
21 the third story additional. And I wondered --
22 I saw in the plan that it was wood paneling.

1 I wondered if HPRB has sort of offered up any
2 opinions in terms of the materials you chose
3 to use?

4 MS. FOWLER: They have -- they
5 have given us approval. We're on the Consent
6 Calendar for the 31st overflow meeting. And
7 like I said we've worked very closely with
8 Jonathan Mellon and the staff and he's
9 comfortable with the plans as we've presented
10 them.

11 We are using wood siding on part
12 of it and then we have a lot of glass and then
13 we have -- we're thinking about these
14 translucent panels which we may or may not use
15 once we get down to the detailing. But -- and
16 then the high windows. So, it's a little bit
17 more of a contemporary feel than most
18 additions on the hill but he was very
19 comfortable with that.

20 We also were talking with him
21 about the possibility of making it a green
22 project. So, we were hoping to include

1 greenery of which -- I don't know that we'll
2 be able to now that we've had to shrink the
3 roof line so much because it does add some
4 extra thickness. and he was really, you now,
5 excited about the prospect of it being a
6 sustainable project.

7 So, overall, yes. We didn't have
8 any feedback from them in terms of modifying
9 the design. It was really just about making
10 sure that it was not visible from the front.
11 And that's why we went back and forth with a
12 flag test and the mock ups.

13 MR. HOOD: Can we look at -- I'm
14 still in the shadow study.

15 Let's use the address 536 and I
16 believe that is Ms. Sherman. And I'm looking
17 at your comparison of what's existing now and
18 what's proposed. And I look at the first
19 page, the time of the year and the times. It
20 looks minimal. It looks like there's not that
21 much change.

22 But now if we go to the summer and

1 we look at 8:00 -- no. Let's look at 10:00.
2 10:00 a.m. in the summer. You see where the
3 existing now at 10:00 should get some sunlight
4 and in the summer the existing looking like
5 it's being completely covered.

6 MS. FOWLER: Right.

7 MR. HOOD: And that's due to the
8 transitioning of the sun.

9 MS. FOWLER: Right. Correct.

10 MR. HOOD: Okay. So, is that the
11 most significant change that you'll see?

12 MS. FOWLER: Yes. What we
13 concluded from our Sun Study was that the only
14 time that's it's going to be impacted is the
15 mid-morning for about an hour, particularly
16 this time of year in the summer where those
17 windows will be blocked. But it's really
18 around the 10:00 to 11:00 a.m. Because you
19 can see by 11:30 a.m. they're back in full
20 sun. It's hard to tell with this shading, but
21 that's actually full sun.

22 MR. HOOD: 11:30?

1 MS. FOWLER: Yes. Because what
2 happens is the sun comes up high enough that
3 it makes it's way down that narrow alley as we
4 refer to it and actually is able to reach
5 those houses. So, that was our conclusion was
6 that it's really just that mid to late morning
7 for a brief period of time that the windows
8 are blocked.

9 MR. HOOD: And the only difference
10 -- the other house, 534 --

11 MS. FOWLER: 534?

12 MR. HOOD: -- yes, in the winter
13 gets some sun at 10:00, where so in the corner
14 of the window. But I guess at 11:30 --

15 MS. FOWLER: Yes. The winter --
16 yes. There was really just that -- currently
17 she gets a little bit of sun in the corner of
18 the window on the second floor which will be
19 eliminated. Again, just in that mid-morning
20 time period.

21 And another thing to keep in mind.
22 These Sun Studies don't include trees.

1 There's a huge tree that's right on G Street
2 just basically in line with that space between
3 the houses. And then there are also a lot of
4 big trees in the back.

5 So, this is really assuming that
6 there's no tree -- there's no foliage on the
7 trees. Even in the summer there's probably
8 significant sunlight being blocked by the
9 tree. And I know that trees can move so I'm
10 not -- you know, I'm just letting you know
11 that that's the case.

12 MR. HOOD: So, is it your
13 testimony is it safe to say that the most
14 impact or a change would be at the 10:00 a.m.
15 hour in the summer?

16 MS. FOWLER: Yes. That's correct.

17 MR. HOOD: Thank you. Thank you,
18 Madam Chair.

19 CHAIRPERSON MILLER: And could you
20 articulate exactly what the impact is going to
21 be for an hour between 10:00 and 11:00?

22 MS. FOWLER: Right.

1 CHAIRPERSON MILLER: Where are
2 they not going to have sun?

3 MS. FOWLER: So, in the spring and
4 fall between 10:00 and 11:00, 536 currently
5 she gets a little bit of sunlight in the top
6 of the window. Very, very top, like maybe the
7 first six inches to a foot. With the proposed
8 addition, that will not -- she won't get that
9 light but for that hour in the morning.

10 So, you can see on that first
11 page, there's a little sliver of light getting
12 in and then that's getting blocked.

13 534 is not impacted. Just a
14 little tiny bit of the corner of the bottom of
15 the window is impacted at that time, mid-day.

16 In the summer we found that,
17 again, the mid-morning, the 10:00 a.m. time --
18 between 10:00 and 11:00 at 536 currently the
19 bottom of the window is blocked by shade and
20 then this would actually -- the shade would go
21 all the way to the top of the window for that
22 hour period of time.

1 And then for the winter, there was
2 really very, very little difference. For 534
3 you can see there was a little bit of sunlight
4 coming in the top window, the second floor
5 window, just the very top corner of it. And
6 then if you look at the proposed that's gone
7 just for that little period of time in the
8 morning.

9 So, that's what we've determined
10 and, again, we've revised this so this is the
11 current plan. I just want to reiterate. We
12 started higher -- a couple of feet even higher
13 than this so we feel like we've already had to
14 squeeze the project as much as we could, you
15 know, any lower and it's not feasible anymore
16 because of the ceiling heights.

17 But we've done the best we could
18 to try to minimize the impact on these
19 neighbors.

20 And we've talked about the light.
21 I think in terms of privacy for those
22 neighbors facing -- their back walls facing

1 east, we're not increasing or decreasing the
2 privacy at all because as we talked about
3 earlier that wall is solid. There are no
4 windows. And the walls at the back facing the
5 north are the high windows in the bathroom.
6 So, there's decrease in privacy.

7 In terms of air, I mean, at this
8 point the backs of their houses are facing a
9 massive brick wall. And that's the way that
10 it is. We're adding at the most another five
11 feet to the top of that wall. But, in my
12 opinion, it's not affecting the air. They're
13 already impacted to such a point and the same
14 with the light. There's already so much
15 impact just by the existing situation. I
16 think that the increase -- it's not undue
17 amount of impact when you look at the
18 increase.

19 Does that make sense?

20 CHAIRPERSON MILLER: Who are you
21 saying are already impacted?

22 MS. FOWLER: The properties on 9th

1 Street in general. I'm speaking in general
2 terms.

3 CHAIRPERSON MILLER: Okay. Using
4 this again, just for orientation.

5 G Street is in front of this?

6 MS. FOWLER: It's on the other
7 side so we're standing in the alley here
8 floating up in the sky in the alley.

9 CHAIRPERSON MILLER: This is the
10 alley back here?

11 MS. FOWLER: Okay.

12 CHAIRPERSON MILLER: Okay.

13 MS. FOWLER: So, this is the house
14 and G Street would be on the other side
15 opposite of this view.

16 CHAIRPERSON MILLER: Okay. and
17 9th Street?

18 MS. FOWLER: 9th Street is over
19 here.

20 CHAIRPERSON MILLER: Thank you.

21 MEMBER DETTMAN: Has this version
22 of the shadow study been presented to your

1 neighbors?

2 MS. FOWLER: No. We just -- we
3 actually just finished it over the weekend.
4 Because, like I said, we did the mock up last
5 week. And we did share the initial sun
6 setting. The first version that was
7 originally submitted and then we just were
8 able to finish this revision with the new roof
9 line. We've kind of been working with
10 Historic Preservation kind of down to the wire
11 here.

12 CHAIRPERSON MILLER: I think also
13 for the benefit of the neighbors perhaps you
14 can explain a little bit who does the sun
15 shade study and how it's done.

16 MS. FOWLER: Okay. I'll let Mike
17 Fowler address that.

18 CHAIRPERSON MILLER: Okay.

19 MR. FOWLER: I used a program
20 called SketchUp and it modeled the projects in
21 actual size. And set the geography to match
22 that address and picked four times throughout

1 the year, spring and fall or it was exactly
2 the same so I lumped those two together to
3 save paper.

4 These are specific times. I mean,
5 the sun angles change every day. So, a week
6 later you might have a little bit more, a
7 little bit less light on those windows. So,
8 it's just to give an idea of what each time of
9 year would be. But it's set up with the
10 geography, with the actual sun angles and the
11 actual heights of the building to the best of
12 my ability to measure and from public records.
13 So, it's about as accurate you can get without
14 actually doing it -- building it.

15 MEMBER DETTMAN: Can you just
16 repeat the name of the program again?

17 MR. FOWLER: It's called SketchUp.
18 It's actually a free software by Google. And
19 you can actually build a model on Google Earth
20 and have it exactly in that location. So, the
21 sun angles for that house and that house is on
22 that property with the sun going around it.

1 MEMBER DETTMAN: And were the time
2 that you selected those are the standard
3 times?

4 MR. FOWLER: I just picked the --
5 it's the soltis as an equinox. It's just, you
6 know, March, June, September and December.

7 MEMBER DETTMAN: No. I mean not
8 the seasons, but the times of day that you
9 selected, were those standard times to select?

10 MR. FOWLER: Yes. I mean, any
11 earlier than 8:00 and there really isn't much
12 change because the sun is coming almost
13 directly from the east. And after noon, the
14 sun has come around to the other side of the
15 project and those -- the back of those houses
16 aren't in the sunlight anyway.

17 So, we're just talking about the
18 morning hours. So, I just picked an early, a
19 middle and a late just to give a range of how
20 the sun angle changes.

21 MEMBER DETTMAN: Thanks.

22 MEMBER OATES: Ms. Fowler

1 mentioned that she wasn't sure about the
2 distance from the edge of the property to the
3 back of the houses on 9th Street. So, how --
4 how is it that you were able to place these
5 properties for the Sun Study?

6 MR. FOWLER: From -- there's a --
7 on the surveyor's --

8 MS. FOWLER: It's the dcgis.gov.

9 MR. FOWLER: dcgis it's a public
10 record of property lines, buildings and in
11 that you have a measuring tool. So, from --
12 from being there and from using that public
13 records of the lots and the buildings that are
14 on the lots we were able to determine that
15 width.

16 MS. FOWLER: And I did -- I did
17 measure the first property. The one that's --
18 if -- 540 G Street. It was six feet and
19 that's the measurement that I have on the site
20 plan, because I was able to physically measure
21 it because t's right there next to the front
22 of the homeowner's property. So, I do know

1 that that is precise. The six feet that you
2 see on the site plan which is, you know,
3 between 540 9th Street and the party wall.

4 And I did see that looking down
5 that space that the properties do job in
6 slightly. And we estimated it was about a
7 foot or so that the properties -- the back
8 porches were built at different depths. But
9 they're within six inches to a foot of each
10 other.

11 MEMBER DETTMAN: Did you derive
12 your heights from the model just on visual
13 inspection?

14 MR. FOWLER: Both visual
15 inspection and from that same website, the
16 dcgis also gives roof elevations. So, I had
17 a roof elevation of those and the existing and
18 was able to determine the difference and come
19 up between that and just being there. I think
20 it's pretty accurate.

21 CHAIRPERSON MILLER: Do you have
22 more to say in your presentation?

1 MS. FOWLER: I think we did
2 address the lighting, air and privacy for all
3 these properties. I just wanted to reiterate
4 that we have the -- you know, we have letters
5 from 538, 540. 908 has been notified. 534,
6 Lisa Mages did sign a letter initially but did
7 have a change of heart so we do have a letter
8 from her.

9 And we also -- the ANC voted
10 unanimously in support of the project.

11 Capitol Hill Restoration voted an
12 approval but they were -- they did base --
13 have a contingency based on the letter from
14 the neighbors. So, we didn't get their formal
15 approval but they did say as long as we
16 submitted the letter from the neighbor they
17 would approve it. And we never did get the
18 letter so --

19 And then we also -- there's a
20 petition. We have several other neighbors
21 that have signed in support. And I know that
22 Heather has talked to many of our other

1 neighbors that are very supportive of the
2 project. And so there's a lot of support and
3 we feel like a lot of neighbors really feel
4 like it's a good project and they want this
5 family to stay. And, you know, they have a
6 new baby. They have two children. They need
7 to -- they're trying to make the space work
8 for them. They can't go back. Obviously,
9 they were already over the seven percent. So,
10 there's absolutely no way they can expand to
11 the back. So, this is their only way to make
12 this house livable for them without leaving.

13 And I know this comes up in a lot
14 of hearings with Historic Preservation and BZA
15 is like, you know, how do we accommodate these
16 growing families and not have them leave to go
17 to the suburbs?

18 MS. KAFELE: Yes. I just -- I'm
19 not an architect, I'm a lawyer too. But, you
20 know, I -- I -- we do want to stay in the
21 neighborhood. We do have two young kids. We
22 want to be committed to the area and the

1 schools and be good community members. And
2 I'm respectful of the historic area and the
3 neighbors and all of that. But I feel like we
4 have kind of gone to great lengths to try to
5 make adjustments to the project to adhere to
6 the historic issues and the neighbors'
7 concerns and ultimately I feel like what we
8 have here is a deepened compromise in which
9 there is very minimal impact, because we have
10 a funny house that sits close already to our
11 neighbors. I mean, we're talking really about
12 an hour of -- little bit less sun than they
13 already had less. And I respect that that's
14 not what they had before, but I ultimately
15 think, you know, an hour isn't that much and
16 we've made a lot of -- I mean, I would love to
17 have a bigger edition. We've made a lot of
18 changes.

19 So, you know, I hope you sort of
20 see the bigger picture. And like Jennifer
21 said, we have a lot of people who have been
22 knocking -- people we know who have been

1 supportive on the project and ever since we've
2 put the sign up have been knocking on our door
3 saying we think it's great. We hope more
4 people can do this so we can stay on the Hill
5 and kind of the only way in my opinion it
6 keeps getting better if people stay longer and
7 are committed to it.

8 So, that's -- you know, I really
9 hope we get your support.

10 CHAIRPERSON MILLER: I'm sorry. I
11 have one other question just to understand the
12 orientation a little bit.

13 The alley is behind here or in
14 front, whatever?

15 MS. FOWLER: The alley -- yes.
16 This view is kind of like you're standing
17 you're kind of floating above the alley.

18 CHAIRPERSON MILLER: Okay.

19 MS. FOWLER: Or a few feet up.

20 CHAIRPERSON MILLER: Is there any
21 issue with respect to privacy from any houses
22 on the other side of the alley or is that a

1 non-issue?

2 MS. FOWLER: If you see on the
3 site plan, they are actually land locked.
4 They don't actually abut the alley. And the
5 back of their house, like the back of the
6 property abuts 532 9th who actually signed a
7 petition. We don't have a letter but we have
8 a signature.

9 And then the houses -- the house
10 at 530 has a garage at the rear so they're
11 quite dense there. And really the only, you
12 know, their house goes back a little further
13 than 532, but they don't have any windows
14 along that side.

15 And the distance is pretty far
16 from the addition to that property. So,
17 anybody else on the alley is so far back and
18 there are garages on almost all the properties
19 facing the alley.

20 MS. KAFELE:

21 When you're actually standing in
22 the alley -- we don't have alley access. We

1 can't even see our house. It's hard to figure
2 out where it is. In the summer you can't see
3 it at all.

4 MS. FOWLER: We were able to get
5 pictures in the winter but you can see there
6 are a lot of trees.

7 CHAIRPERSON MILLER: Okay. So,
8 basically what it seems like we're coming to
9 is that where really the only issue with
10 respect to light and air and privacy go to Ms.
11 Mages and Ms. Sherman's homes. I mean,
12 they're here to address that. Otherwise I
13 think that there is another issue to other
14 sides of the property.

15 MS. FOWLER: That's right.

16 CHAIRPERSON MILLER: Okay. Okay.

17 VICE CHAIRMAN LOUD: And just one
18 follow-up question -- is it Mr. Feller? Mr.
19 Fowler.

20 Does the SketchUp program allow
21 you to quantify the amount of lost light? I'm
22 looking at the handouts and I can see the loss

1 of -- you know, I can see the increase in
2 shadow in the two different versions. But is
3 there a numerical quantification in the
4 program?

5 MR. FOWLER: No. There is not.

6 VICE CHAIRMAN LOUD: All right.

7 Thanks.

8 CHAIRPERSON MILLER: And has this
9 Sun Shade Study been shared with the Office of
10 Planning?

11 MS. FOWLER: They have the older
12 version. And this one is really hot off the
13 presses, but I believe he has a copy in front
14 of him right now, Paul.

15 CHAIRPERSON MILLER: Okay.

16 MS. FOWLER: It's actually pretty
17 similar. The results are very similar to the
18 original study. It's just the, you know, the
19 slight change in the roof line. But we had
20 similar conclusions before with the previous
21 study.

22 CHAIRPERSON MILLER: And what's

1 left to happen at HPRB?

2 MS. FOWLER: I'm sorry, what's
3 left --

4 CHAIRPERSON MILLER: What's left
5 in that process?

6 MS. FOWLER: We are on the Consent
7 Calendar and we were originally going to be on
8 the, I guess, it was the fourth Thursday. And
9 Jonathan Mellon had a family emergency and so
10 we've been pushed back to the overflow meeting
11 which is on the 31st.

12 But it is Consent Calendar which
13 means the project won't be presented. It's
14 just, they're going to vote on it. And we
15 have staff support.

16 MEMBER DETTMAN: Madam Chair,
17 there's an extra copy of the lasted Sun Study.
18 It might be helpful to provide that to the
19 parties in the case so when we get to
20 questioning them they are familiar with it.

21 CHAIRPERSON MILLER: That's true.
22 That's true. It's about the time that they

1 will their opportunity to cross examine now.

2 Ms. Bailey, do we have another
3 copy for them?

4 MS. BAILEY: I have two extras, I
5 can share with them.

6 CHAIRPERSON MILLER: Okay. Great.

7 Are there other questions from
8 Board members?

9 Okay. Ms. Mages and Ms. Sherman,
10 now is an opportunity for you if you have any
11 questions for the applicant based on the
12 testimony you've heard today. You don't have
13 to but if you have any, you have an
14 opportunity to come forward and ask them.

15 MS. MAGES: Let me say I feel at a
16 disadvantage seeing this for the first time
17 now. I don't study these things as a matter
18 of course so to be able to digest it quickly.
19 And I feel at a disadvantage here.

20 CHAIRPERSON MILLER: That's
21 understandable.

22 MS. MAGES: I don't know that I

1 have so much questions about the light as a
2 different interpretation which, I guess, I
3 would present when I do my statement.

4 MR. MOY: Excuse me. Could you
5 hold the mike closer.

6 MS. MAGES: Oh, I'm sorry. Yes.

7 I need a minute to think if I have
8 questions versus just want I want to say later
9 on.

10 CHAIRPERSON MILLER: Ms. Sherman,
11 are you -- are you -- do you have any
12 questions? Are you ready to ask any?

13 MS. SHERMAN: Well, I had an
14 earlier study which looks very different from
15 this. And I'm just seeing this one that
16 you've just seen in front of you for the first
17 time. I wasn't able to follow the discussion
18 because it wasn't in front of me then.

19 But I have this study which was
20 done at an earlier time which this is
21 supposedly what we have now. No. Excuse me.

22 This is supposedly what we have

1 now and this is supposedly what it will be
2 with the addition on the roof.

3 Now, I don't really understand
4 this one and I've never seen it before. So,
5 it's very hard for me without any preparation
6 to be asking any questions on this. And I
7 sort of object to this very late entry of
8 evidence, if you will, that we really can't
9 respond to.

10 CHAIRPERSON MILLER: Okay.

11 MR. HOOD: Let me just ask. It
12 would help me. I would agree actually but
13 would help me. We had an existing and a
14 proposal -- do they have both?

15 MS. MAGES: Yes.

16 MS. SHERMAN: Yes.

17 MR. HOOD: So, you have both. If
18 you have both, behind one of them is the
19 proposed. I think behind is the proposed and
20 I just set them beside each other, looked at
21 the times --

22 MS. SHERMAN: Right. But, I mean,

1 I just --

2 I understand that. However, what
3 I'm saying is, that looks very different from
4 these studies which were in the file. And I
5 feel that I need time to --

6 CHAIRPERSON MILLER: Okay. I hear
7 you.

8 MS. SHERMAN: -- look at these. I
9 need -- I might want to have my own expert
10 look at them. How do we know how true these
11 things are?

12 This -- I find this very upsetting
13 that I'm seeing this for the first time, was
14 not able to follow your conversation very well
15 because we didn't even have this in front of
16 us. So, I feel that I'm at a tremendous
17 disadvantage here in trying to present how I
18 feel about this -- this project.

19 CHAIRPERSON MILLER: Okay. I hear
20 you. That's reasonable.

21 You know, we have options here and
22 then we can, you know, discuss it further

1 later. But let me just say this that, you
2 know, as I said before, we don't necessarily
3 need to make a decision today, that
4 applicant's present reasons why they would
5 like a decision sooner rather than later. But
6 we also have the option of leaving the record
7 open for a party to address something that in
8 all fairness they might not be able to address
9 at the hearing because you just got it.

10 So, we're going to take that into
11 consideration and, you know, when we get to
12 the end of this hearing to decide how to
13 proceed after we hear from everybody.

14 So, I understand your objections
15 and that you're not prepared to ask questions
16 on this because you just got it and you're
17 going to think about whether or not you would
18 have an expert do another Sun Study or not.
19 I don't know. But in any event, your
20 objections are well noted and let's just see.

21 Do you have other questions you
22 want to ask of the applicant at this time?

1 And let's leave those studies alone for now if
2 you're not prepared.

3 MS. SHERMAN: Well, I have one
4 question.

5 Isn't it true that you believe
6 that the original project would not be visible
7 from the street but when a mock up was done,
8 it turned out that a portion of it was, in
9 fact, visible from the street and the project
10 had to be modified?

11 MS. FOWLER: When we -- yes. When
12 we did the mock up with Historic, we did
13 modify the height slightly.

14 MS. SHERMAN: Because you saw that
15 the -- in spite of the mock up, the flag
16 showed that it could be seen from certain
17 angles?

18 MS. FOWLER: Right. We did the
19 flag text initially and it's not as accurate
20 because we didn't have the tools to really
21 measure from the floor below, but then we
22 brought the contractor in to the mock up. He

1 was able to take the measurements from the
2 floor -- the existing second floor and take it
3 all the way up to the roof from there. So,
4 it's a lot more accurate than what we did with
5 the flag.

6 And so he -- and he has the tools
7 to be able to do a level wall all the way back
8 so we could see the extent of the addition.

9 MS. SHERMAN: But, in other words,
10 the study resulted in a modification of your
11 original plans?

12 MS. FOWLER: Correct.

13 MS. SHERMAN: Okay. So, if this
14 is so, how do we know that the light study is
15 correct?

16 MS. FOWLER: We already went
17 through that. It's very precise. I mean,
18 we've got all the information from the public
19 surveys that are in record, with measurements
20 on the site. That's a very different
21 situation because with the mock up height we
22 were dealing with the thickness of the roof.

1 There is information about the house that we
2 didn't know until we were able to get up there
3 with a contractor.

4 MS. SHERMAN: We don't even know
5 if this is the only way of doing the light
6 study, do we?

7 CHAIRPERSON MILLER: Is that a
8 question?

9 MS. SHERMAN: Yes.

10 CHAIRPERSON MILLER: Is this the
11 only way to do a light study? Data study?

12 MR. FOWLER: No. There's lots of
13 way to do it. With the software you can build
14 a model, physical model. But, no, it's not
15 the only way. But they all should end up with
16 the same result.

17 CHAIRPERSON MILLER: Why is this a
18 reliable way?

19 MR. FOWLER: Because the buildings
20 are built the size that they are accurately.
21 It accurately puts the buildings in the
22 geographic location that it is so that the sun

1 angles are precise to that specific site.

2 CHAIRPERSON MILLER: Thank you.

3 Any other questions?

4 MS. SHERMAN: I don't think we
5 have any questions right now, but --

6 MS. MAGES: I don't know. Is this
7 the only time to ask questions basically?

8 CHAIRPERSON MILLER: This is the
9 only time to ask questions of the applicant.
10 You're then going to hear from the Office of
11 Planning and you'll have an opportunity to ask
12 the Office of Planning questions.

13 MS. MAGES: Okay. Well, this
14 question has to do with the petition that I
15 signed initially. And then the letter that
16 was used -- that was generated from it and
17 then presented to the ANC as evidence of
18 support.

19 Did you -- did you sign my name to
20 the letter because I didn't send the letter.
21 The letter was generated. I mean, I did not
22 write a letter to the Board.

1 MS. FOWLER: I'm not sure I
2 understand the question.

3 CHAIRPERSON MILLER: Is there a
4 letter in the Board's record from you that
5 you're referring to?

6 MS. MAGES: Yes. This I copied
7 from what was in the file. There's this
8 petition, you know, okay, that I signed. And
9 I can tell more about that in a minute. But
10 then there was a letter, Board of Zoning
11 Adjustment, that's essentially saying what's
12 in the petition and it's my name. But I
13 didn't sign it. So, I'm -- did you sign it?

14 MS. KAFELE: No. I did not sign
15 it. I mean, I -- I'm at a little bit of a
16 loss because my husband went around and got
17 these and I understood that he got your
18 signature in support. And that was what was
19 sent. So, I can say I didn't sign it. I
20 wasn't the person who did the process.

21 MS. MAGES: Now, who did?

22 MS. KAFELE: But I was under the

1 impression did so I'm a little bit unprepared
2 to respond to that other than I think that the
3 office was your -- now this signature.

4 MS. MAGES: This signature. This
5 isn't my signature.

6 CHAIRPERSON MILLER: Okay. Okay.
7 That's noted and --

8 MS. KAFELE: Is that -- I'm sorry.

9 MS. MAGES: I signed the petition.
10 I signed the petition.

11 MS. KAFELE: So, you're saying
12 this is your signature?

13 MS. MAGES: Yes.

14 MS. KAFELE: But the letter is not
15 your signature?

16 MS. MAGES: That is correct.

17 MS. KAFELE: Yes. I thought they
18 were both your signature. I don't have -- I
19 will be surprised. I don't now.

20 MS. MAGES: When I signed the
21 petition, I thought I was signing to indicate
22 that I'd been informed that this process was

1 happening. I was --

2 CHAIRPERSON MILLER: You're going
3 to get a chance to testify.

4 MS. MAGES: Testify. Okay, fine.
5 So, that was my question.

6 CHAIRPERSON MILLER: Okay. Okay.
7 Your questions here was did she sign the
8 letter? She said no.

9 MS. MAGES: Okay. Fine. Okay.

10 MS. KAFELE: Just one comment.

11 WE had to get signature from
12 neighbors because they were doing a basement
13 renovation. And I'm wondering if there was
14 confusion as to what letter it was possibly
15 that she signed because we had to have a
16 couple of letters signed because they
17 excavated the crawl space in their basement
18 and DCRA required their signature early so
19 they would be notified.

20 So, I'm just wondering if there
21 was some confusion with that because we
22 certainly didn't forge her signature.

1 MS. MAGES: That's what I'm
2 wondering. I don't know the answer but I'm
3 just wondering -- there were several letters.
4 I don't know.

5 CHAIRPERSON MILLER: I don't even
6 see it n the record right now. But -- But we
7 got it, you know.

8 MS. MAGES: Okay.

9 CHAIRPERSON MILLER: You didn't
10 sign a letter supporting this project. Okay.

11 Do you have any other questions?
12 Okay.

13 MS. KAFELE: May I respond to one
14 question that they raised? Just on the timing
15 of the light study. I appreciate it's a
16 disadvantage to be looking at it for the first
17 time here.

18 I would like to note, however,
19 though. When we did do an initial light study
20 that Susan had had for awhile and the outcome
21 is very similar, number one. And the only
22 reason for the very recent timing of this

1 additional one is because on Saturday after
2 getting the opposition of Ms. Mages, we then
3 sat down with her, Jennifer and my husband sat
4 down with her and it was her request to do the
5 back mock up. And that's where the additional
6 revision to the Sun Study came from at that
7 time within the last day or so.

8 So, that's the only reason that
9 this particular one hasn't been presented any
10 earlier. It wasn't done to disadvantage
11 anyone. And the earlier Sun Study which is
12 visually looks different, but the outcome is
13 similar, was previously given to them and gone
14 through -- not only given to them, but
15 Jennifer sat down with them at their homes and
16 walked through and explained the drawings and
17 the studies with them.

18 CHAIRPERSON MILLER: Excuse me.
19 Wait a second. When was that?

20 MS. FOWLER: We went through the
21 drawings, not the studies, but I did meet with
22 them looking over the plans.

1 CHAIRPERSON MILLER: Oh, okay.
2 When did you provide the first Sun Study
3 though?

4 MS. KAFELE: I'm sorry.

5 CHAIRPERSON MILLER: When did you
6 provide the Sun Study to the --

7 MS. KAFELE: The original one?

8 CHAIRPERSON MILLER: Who did you
9 provide it to, Ms. Sherman and Ms. Mages?

10 MS. KAFELE: ms. Sherman --because
11 we though Ms. Mages had -- was okay with the
12 project because she signed the petition.

13 I don't have the exact date. From
14 memory, I believe it was like December.

15 CHAIRPERSON MILLER: I'm sure
16 she'll correct you if you're wrong. Yes.
17 Okay.

18 MS. KAFELE: Before the holidays.

19 CHAIRPERSON MILLER: Okay.

20 MS. FOWLER: Yes. We did the Sun
21 Study as per her request. I mean, that was --

22 MS. SHERMAN: No. I never

1 requested it.

2 MS. FOWLER: Well, I think that
3 they realized that that would be helpful after
4 talking to Ms. Sherman that that was what
5 needed to happen, so we did it.

6 MS. KAFELE: Yes. What had
7 happened is during the conversation with her
8 she raised the concern about her light. So,
9 we talked to Jennifer and said, what can we do
10 to address this concern? And they had the
11 idea well, let's actually figure out what the
12 real impact is. And so that was our way of
13 trying to address her concern.

14 CHAIRPERSON MILLER: So, did you
15 give her a copy of the Sun Study then? Just
16 go over it or what?

17 MS. KAFELE: Earlier - -the early
18 one, yes. And I should say we tried really
19 hard to -- we wanted to sit down with her and
20 we just could not find when she was home. And
21 so what we ended up doing, we wanted her to
22 have it. We left her a copy with a note to

1 please call us so we can go over it. We've
2 been unable to get in touch with her until we
3 actually got her official letter of opposition
4 which had her phone number and contact
5 information where we actually were able to
6 call her.

7 But we had tried several time to
8 knock on the door --

9 CHAIRPERSON MILLER: When was
10 that? When was that?

11 MS. KAFELE: -- and my husband
12 even sat outside trying to find when she was
13 home. But we just were unsuccessful.

14 So, we had every intent. We would
15 not have gone to pay -- have our architects
16 pay for this for no reason. We wanted to go
17 through with it.

18 CHAIRPERSON MILLER: Ms. Sherman,
19 when was your letter of opposition? Is that
20 the party status application that we had?

21 MS. SHERMAN: It was in January.

22 Let me just say that I have been

1 out of town a lot. However, I do have one
2 more question about this original Sun Study.

3 Does this represent the original
4 plan or the modified plan?

5 MS. FOWLER: That's the original
6 plan with the -- because we originally had the
7 back roof bumping up and then once we worked
8 with Historic we realized that, in fact, the
9 entire thing was visible all the way back from
10 the street. And that's why we ended up
11 lowering the entire roof down. So, that's the
12 old -- old Sun Study. And, in fact, the new
13 one shows a little -- slightly less impact
14 than this study.

15 MS. SHERMAN: Okay. But I have
16 not seen the new one. Isn't that correct?

17 MS. FOWLER: That's the one that
18 you have in front of you that's the color
19 version.

20 MS. SHERMAN: Right. Until today?

21 MS. FOWLER: Correct.

22 CHAIRPERSON MILLER: I was going

1 to get to this later but since we're on this.

2 When did you get the original Sun
3 Study?

4 MS. SHERMAN: I think it was
5 sometime in December.

6 CHAIRPERSON MILLER: Sometime in
7 December. Okay.

8 MS. SHERMAN: But I've been out of
9 town quite a bit in December.

10 CHAIRPERSON MILLER: And did you
11 have a chance to ask Ms. Fowler about the
12 study, how to read it? How to understand it?

13 MS. SHERMAN: Actually, when we
14 met at the house our discussion involved the--
15 the drawings of the structure. She was trying
16 to explain to me. I had misinterpreted their
17 application about the mud room so she was
18 explaining that to me.

19 We actually didn't discuss the Sun
20 Study.

21 CHAIRPERSON MILLER: And, Mr.
22 Fowler, how different is this Sun Study that

1 we're looking at today from the one you
2 provided her?

3 MS. FOWLER: We lowered the roof
4 line about two feet. And we changed the
5 massing so the old Sun Study had a raised roof
6 at the rear and instead that's gone done. And
7 then we created a clear story structure which
8 you can see the -- it kind of looks like a
9 cake, you know, on top. So, that's really the
10 big change.

11 And we did make -- we did get a
12 little bit more information, made it more
13 accurate in terms of double-checking the
14 elevations of the adjacent properties, the
15 roof elevations. We added the windows which
16 we originally didn't have in there. So, just
17 so that there was a little bit more
18 information.

19 CHAIRPERSON MILLER: How about the
20 impacts on their properties that the study
21 show?

22 MS. FOWLER: At this point there

1 is slightly less impact but it's -- it's
2 nominal the difference between the old -- I
3 would pretty much make the same conclusion
4 between the old and the new.

5 Again, it's that one hour during
6 the morning that the windows are being
7 impacted.

8 CHAIRPERSON MILLER: Okay.
9 Anything else?

10 MS. SHERMAN: In terms of
11 questions?

12 CHAIRPERSON MILLER: Before we go
13 to the Office of Planning's testimony? No.
14 Okay.

15 Any Board questions?

16 MEMBER DETTMAN: Madam Chair, I
17 wonder if I could ask a couple of questions of
18 the parties -- to both parties actually.

19 I heard in the beginning of the
20 hearing that mainly your issues go to light
21 and views. And I guess I'll ask my questions
22 to -- what's that?

1 CHAIRPERSON MILLER: Well, they
2 didn't testify yet. Do you want to wait until
3 they testify?

4 MEMBER DETTMAN: I can wait.

5 CHAIRPERSON MILLER: Okay.

6 MEMBER DETTMAN: Thank you.

7 CHAIRPERSON MILLER: Okay. Okay.

8 VICE CHAIRMAN LOUD: Madam Chair,
9 can I ask one question before we move to OP of
10 the architect? Okay.

11 Just again for my clarification,
12 Mr. Fowler, and I appreciate the study. I
13 learned a lot about it as I'm getting more
14 familiar with these studies.

15 But the winter and the summer
16 light have their own distinctions. But the
17 spring and fall you've placed on the same
18 page. Is that because the lighting mirrors
19 each other, spring and fall?

20 MR. FOWLER: Yes. That's correct.

21 VICE CHAIRMAN LOUD: Okay.

22 MR. FOWLER: Not exactly, but yes.

1 VICE CHAIRMAN LOUD: But the
2 deviation would be very, very minimal?

3 MR. FOWLER: Yes. The original
4 Sun Study I had separate ones for fall and
5 spring and they looked almost identical. So,
6 I just combined them on this one.

7 It's actually the way that it's
8 printed out now, that's the spring one. But
9 if I had the fall one it would just be the
10 same thing.

11 VICE CHAIRMAN LOUD: Is that
12 pretty standard that the lighting is generally
13 the same -- sunlight is generally the same in
14 the spring and the fall?

15 MR. FOWLER: The sun angles are,
16 yes.

17 VICE CHAIRMAN LOUD: Okay.

18 MR. FOWLER: Yes. I mean, the
19 differences would be, you know, foliage on
20 trees and stuff like that. But the sun -- the
21 sun in those are the same. As it changes
22 from, you know, low sun in the winter and high

1 sun in the summer, it transitions. You know,
2 in springtime, the sun is going up and then
3 it's going back down in the fall. So, it's on
4 the downward slope but identical to the time
5 of year.

6 VICE CHAIRMAN LOUD: Okay.

7 MR. FOWLER: And the one -- the
8 one difference that's making the two version
9 of the study look a lot different is that the
10 first one, the view is from the front of the
11 house. In that way I could see all the houses
12 -- the backs of all the houses that were
13 adjacent to the property.

14 When we started to tailor this
15 more towards these two specific properties, we
16 were trying to clarify the issues, I moved the
17 camera angle where I got these photographs or
18 these images from to the back of the house and
19 then added a little more detail back there so
20 you could see, you know, approximately, you
21 know, the relations of sun angles to windows.

22 So, the difference is -- the main

1 difference that makes it look that different
2 is that is you're just looking at the same
3 model from a different perspective. But the
4 sun is doing the same thing and essentially
5 doing the same thing in both versions.

6 VICE CHAIRMAN LOUD: Thank you.

7 CHAIRPERSON MILLER: Any other
8 Board questions?

9 Okay. Then why don't we go to the
10 Office of Planning.

11 MR. GOLDSTEIN: Good morning,
12 Madam Chair, and Members of the Board. My
13 name is Paul Goldstein and I'm a Development
14 Review Specialist with the Office of Planning.

15 The Office of Planning recommends
16 approval of the applicant's request for
17 special exception relief under the
18 requirements of lot area, lot occupancy and
19 open court pursuant to Section 223 for the
20 construction of a third floor addition and
21 deck on top of an existing row dwelling at 906
22 G Street, SE. The property is zoned R-4.

1 OP notes that the applicant
2 submitted a modified proposal on January 9th
3 in response to discussion with the Historic
4 Preservation Office. The primary purpose of
5 the revised plans is to further minimize any
6 views of the addition from G Street, most
7 notably by further lowering the height of the
8 addition.

9 The History Preservation Review
10 Board is scheduled to review a proposal on
11 January 31st, 2008. As more explicitly
12 provided in my report, Section 223 relief is
13 designed to accommodate proposals for
14 additions that do not comply with certain
15 zoning requirements.

16 In this case, the subject property
17 has a sub-standard lot area. The dwelling
18 currently exceeds the maximum lot occupancy
19 and there is an existing non-conforming open
20 court.

21 The lot area measures 1,260 square
22 feet and in a zone that requires a minimum of

1 1,800 square feet. The dwelling currently
2 occupies 71.8 percent of its lot. But the
3 applicant will remove a back porch as part of
4 the proposal, thereby bringing the lot
5 occupancy below the 70 percent permitted under
6 Section 223.3.

7 The proposed addition will also
8 extend an already nonconforming court as a
9 result of increasing the dwellings height.
10 Nevertheless, Section 223 addresses situations
11 as we find here where there's not strict
12 zoning compliance with lot area, lot occupancy
13 and court requirements.

14 OP further believes that the
15 provisions found in Section 223.2 have been
16 satisfied by the applicant's submission,
17 meaning that the proposed addition will not
18 have a substantially adverse affect on the use
19 or enjoyment of any adjacent property or
20 dwelling.

21 First, the addition will not have
22 an undue affect on the light and air available

1 to neighboring properties. The proposed
2 addition will only increase the height of the
3 house by about five feet. Neighboring
4 properties will still have adequate access to
5 light and air.

6 But as to the specific issue of
7 sunlight, we recognize that the addition will
8 diminish some sunlight reaching neighboring
9 properties at certain times of the day.

10 As a result of the tight
11 configuration of homes in this Capitol Hill
12 neighborhood it is not uncommon for dwellings
13 to block to some extent the sunlight reaching
14 their neighbors.

15 In this case, for example, there
16 is already diminished sunlight reaching this
17 five to six foot gap between the applicant's
18 dwelling on the west side and the adjacent 9th
19 Street row homes. But given the muted
20 increase of the addition's height, OP does not
21 believe that there will be an undue amount of
22 additional sunlight obstruction to neighboring

1 properties.

2 Second, the proposal aims to
3 minimize any new views of adjacent properties.
4 There will be new windows facing north and
5 south but there will be no new windows --
6 pardon me, no windows along the addition's
7 west side facing the row homes along 9th
8 Street and the windows along the dwelling's
9 east side are set back at an angled wall.

10 The deck on the dwelling's east
11 side also does not appear to be intrusive.

12 As a result, the addition will not
13 unduly compromise neighbor's privacy and
14 enjoyment of their properties.

15 And, finally, the addition will
16 not visually intrude upon the character, scale
17 and pattern of homes along the subject street
18 frontage.

19 According to the Historic
20 Preservation Office, the applicant has
21 addressed the issue of public visibility of
22 the addition from G Street and the property

1 also as has been explained, does not abut a
2 public alley.

3 Based on our review of Section
4 223, OP supports the requested relief. And
5 that concludes my presentation. I'm now
6 available for questions.

7 Thank you.

8 CHAIRPERSON MILLER: Thank you.

9 If I heard correctly today, it
10 sounded like we're talking about one hour of
11 sunlight that's going to be diminished for the
12 two neighbors who are here and a couple of
13 other neighbors maybe. But with respect to
14 the neighbors that are here, we're talking
15 about one hour in the summer.

16 And I guess my question goes to
17 when OP makes an analysis they have to make a
18 judgment that it's either a substantial
19 adverse impact of the same with the Board.
20 And in your opinion as represented in your
21 report, you concluded that a one-hour
22 diminishment in the context of the block as it

1 exists now, where there's already a close
2 proximity with houses where sunlight is
3 diminished is not substantial.

4 Is that correct? Do you want to
5 elaborate on that at all or is that basically
6 correct?

7 MR. GOLDSTEIN: That is correct.
8 We try to make a judgment looking at the
9 information presented to us and the specific
10 factors of the case and then try to determine
11 what creates an undue amount of impact.

12 It's difficult under circumstances
13 where you have dwellings that are configured
14 closely together to not have any impact.
15 That's why the standards uses a slightly more
16 -- a slightly higher standard of undue.

17 We looked at the amount of light
18 that is already somewhat diminished in this
19 gap, about the height of the proposed addition
20 and also the applicant did submit Sun Studies.
21 And based on the totality of the factors that
22 we looked at, we did not consider an undue

1 impact. That's not to say there isn't any.

2 CHAIRPERSON MILLER: Thank you.

3 Does the applicant have any cross
4 examination?

5 MS. KAFELE: I just wanted to make
6 one point of clarification.

7 When you said that you did review
8 the Sun Study, the original Sun Studies, not
9 the one just handed to you. Correct?

10 MR. GOLDSTEIN: That is correct.
11 I also did not have the revised Sun Study
12 until today.

13 MS. KAFELE: Okay. And looking at
14 the revised Sun Study, is it consistent with
15 what you originally looked at -- the
16 conclusion?

17 MR. GOLDSTEIN: The conclusions I
18 think I haven't looked specifically at this
19 new submission. I think generally the first
20 one indicated that it was a late morning
21 issue, certain periods of time in the late
22 morning that there would be some obstruction.

1 I believe that's generally the
2 same conclusion that the revised version
3 submitted today is. As far as any specifics,
4 I shouldn't comment on that.

5 CHAIRPERSON MILLER: Okay. All
6 right.

7 MS. MAGES: May I ask a question?

8 CHAIRPERSON MILLER: Yes. You're
9 next. That's the procedure.

10 MS. MAGES: Okay.

11 CHAIRPERSON MILLER: It's now your
12 turn if you have any cross examination,
13 questions for Office of Planning.

14 MS. MAGES: Okay. Do you have --
15 is there -- what is undue versus significant?
16 As far as I can tell when we're talking about
17 morning sunlight here we're basically talking
18 from 9:00 to 12:00 anyway. Once the sun is
19 straight overhead it's not an issue anymore.

20 So, if you're talking about a
21 window of three hours and one of those is
22 eliminated, that is still considered not

1 significant? Is there a -- is there like a
2 gradation or something that you use to call it
3 one thing versus another?

4 MR. GOLDSTEIN: Thank you for your
5 question.

6 I think it's difficult to set out
7 any particular standard of gradation for these
8 types of issues. Each project that we get has
9 it's own set of circumstances. We try to look
10 at the facts as a whole to determine it did
11 diminish some sunlight reaching your
12 properties. We considered it in the
13 circumstances of your case and felt that this
14 was not an overwhelming intrusion on your
15 light.

16 These terms are by their nature
17 somewhat undefined or indefinite. It requires
18 a test that you kind of look at all the
19 factors that you can to determine. It's
20 difficult to say would five hours versus three
21 hours, there's no bright line test that we
22 use. But we try to look at this case

1 individually and make a determination based on
2 the circumstances that we see.

3 VICE CHAIRMAN LOUD: Just so I'm
4 clear. Do you accept Ms. Mages' premise that
5 there -- the window is only three hours for
6 light?

7 MR. GOLDSTEIN: I would defer more
8 to the applicant's expert on sun Studies, but
9 it appeared to me that it is based on a window
10 in the morning. I don't feel as equipped to
11 testify about what the window is or the time
12 frame of the exact intrusion or obstruction of
13 light. But that seems to be right to me based
14 on my understanding of what they submitted and
15 my sense of how the sun moves and where the
16 light is going to -- the sunlight is going to
17 come from.

18 It would appear that in the
19 morning as far as a specific window, I would
20 probably defer to the applicant and their
21 ability to explain the Sun Study.

22 VICE CHAIRMAN LOUD: That was an

1 excellent ambiguous answer.

2 But to follow her line of
3 questioning. If the window is three hours and
4 then losing one of those three hours, even by
5 the applicant's expert, why wouldn't that be
6 considered substantial?

7 MR. GOLDSTEIN: Well, it's hard to
8 say what -- where the line specifically on
9 substantial is drawn. It -- what one person
10 may view as substantial, another person may
11 not.

12 Based on our look at losing
13 perhaps an hour of light, based on the amount
14 of light that already reaches these properties
15 based on the applicant's desire to expand
16 their home, there's a number of factors that
17 have been presented. It is -- we determined
18 that it's not an undue impact. It has an
19 impact. Where that line is drawn is somewhat
20 subject to our judgment of the total facts of
21 the case.

22 VICE CHAIRMAN LOUD: I don't have

1 any further questions right now, Madam Chair,
2 on that particular point.

3 CHAIRPERSON MILLER: Okay. Any
4 other questions?

5 Is anybody here from the ANC in
6 this case? Okay.

7 Is anybody here in support of the
8 application?

9 All right. Not hearing from
10 anyone then, it is your turn now as the
11 parties in opposition to present any testimony
12 or evidence in the case.

13 MS. SHERMAN: Okay. I am Susan
14 Sherman. I live around the corner from the
15 Kafele's on 9th Street and the side of their
16 house extends along almost the entire rear
17 portion of my house.

18 A narrow alleyway, actually it's a
19 right-of-way separates the back of my house
20 from the side of their house.

21 I oppose the Kafele's application
22 for a special exception because it will

1 significantly and adversely affect the light
2 I receive in the rear portion of my small
3 house.

4 The rear of the first floor of my
5 house consists of a dining area and part of
6 the kitchen. Upstairs a sun porch with five
7 large windows goes across the rear portion of
8 my house.

9 I enjoy both areas and use them
10 frequently because of the privacy and
11 protection from street noise their rear
12 location offers.

13 The Kafele's architect, Jennifer
14 Cox Fowler has done some light studies
15 purporting to show that the proposed addition
16 will have only slight or minimal impact on the
17 house -- excuse me, on the light entering the
18 windows at the rear of my house.

19 By the way, I want to take this
20 opportunity to say that contrary to the memo
21 that was given to me this morning by Ms.
22 Bailey, I never did request a Sun Study

1 because, in fact, until recently I didn't know
2 what such a thing was.

3 Anyway, in Ms. Fowler's study, she
4 says that in March "the light will only be
5 impacted minimally mid-morning." And the
6 project "at the most will block half of the
7 light to the upper windows."

8 Half is 50 percent. Does 50
9 percent less light seem to you to be a minimum
10 impact?

11 Ms. Fowler indicated that she
12 studied the proposed addition during the four
13 quarters of the year, December, March, June
14 and September. Ms. Fowler's study indicates
15 that at mid-morning in three out of the four
16 periods studied, half of the light will be
17 blocked.

18 This doesn't strike me as a slight
19 impact. I think major impact would more
20 accurately describe the effect of the project
21 on the light in the rear of my house.

22 The inference throughout this

1 application for a special exception seems to
2 be that since the back of my house does not
3 get much light anyway, a little bit less is
4 not significant.

5 On the contrary, I believe that
6 every bit of light blocked is more significant
7 and will be sorely missed.

8 Now, in this memo I received this
9 morning from Ms. Bailey, it says that the
10 Office of Planning had not received any
11 submission from me and that is true. I didn't
12 know that I could supply one.

13 The other thing I really want to
14 note is that there was no notice given to me
15 or my neighbor of the ANC meeting. If there
16 had been, we would have appeared there, I'm
17 sure. And that the applicants had said that
18 the neighbors were shown the plans. Well,
19 this neighbor was never shown any plan.

20 Anyway, the other thing that --
21 the other point I'd like to make is. It's
22 really unclear to me how accurate any of these

1 estimates are and how the studies were done
2 and whether the method used is the best given
3 the particular circumstances here.

4 Perhaps they've underestimated the
5 impact. Perhaps they've overestimated the
6 impact or possibly have done both, erring one
7 way at certain hours and another way at other
8 hours.

9 How do we know the estimates are
10 correct? According to Ms. Fowler "the
11 existing house already blocks most of the
12 winter sun in the morning." Yet just
13 yesterday morning at about 10:30 or 10:45,
14 contrary to the study, I observed sunlight
15 coming at least four feet into my kitchen and
16 I have some pictures here to illustrate this.

17 CHAIRPERSON MILLER: You should
18 give them Ms. Bailey and she'll pass them down
19 to us.

20 MS. SHERMAN: This is essentially
21 a similar picture. It's actually a different
22 shot.

1 I guess I would like a new light
2 study of the final version of the proposed
3 structure with a full explanation of how the
4 conclusions were reached so that I can have an
5 independent expert evaluate the conclusions.

6 Certainly, this is not too much to
7 ask in view of the negative effect that this
8 proposed project will have on my house.

9 The other thing that I would like
10 to say is the study seems to have been done
11 for three different time periods, 8:30 in the
12 morning, 10:30 and 12:30. And so the line of
13 questions from the Board seems to be that
14 people seem to imply that the only time that
15 we're losing light is for a single hour. And
16 I think that this trivializes the situation
17 because I think that it spreads. It starts
18 earlier than 10:30 and it lasts later than
19 10:30. So, I think that it's much more likely
20 that we are losing a substantial amount of
21 light for almost three hours.

22 Thank you.

1 And, again, I would really like
2 some time to study this -- this new study that
3 was presented this morning, not new study but
4 new pictures there from a different side of
5 the house. And I just can't respond to them
6 quickly. I'm not an architect and I can tell
7 from the questions of the Board that they're
8 far from self-explanatory.

9 CHAIRPERSON MILLER: Are you
10 prepared to address the full or the former Sun
11 Study?

12 MS. SHERMAN: Excuse me?

13 CHAIRPERSON MILLER: Are you
14 prepared to address the Sun Study that was
15 provided to you before the hearing?

16 MS. SHERMAN: Well, it just seems
17 to me that I'm not so sure it's correct
18 because as I've shown you in the picture I
19 just submitted, the Sun Study seems to show
20 I'm getting no light now but I am. So, I
21 would like to go more into how this was done,
22 if it is the best way of doing it, if there

1 are other ways that would show different
2 results. I don't know this. I'm not an
3 architect. I can hire one and make them tell
4 me.

5 CHAIRPERSON MILLER: I understand
6 that and I guess my question goes to, you
7 know, your request to be able to respond in
8 more time and for the Board to evaluate that
9 request at the end of this hearing.

10 And part of my concern goes to
11 hearing -- certainly, this is a new Sun Study
12 and so, you know, I can see that, you know,
13 you should have some time to respond to that.
14 But with respect to how it is done and not
15 being -- you know, not being an architect and
16 not being prepared to address that and
17 evaluate that, you were given a Sun Study
18 weeks ago from what I understand and you knew
19 that the hearing was today. So, why wouldn't
20 you be expected to be prepared to have
21 evaluated those questions or hired an expert
22 if you wanted to hire an expert?

1 MS. SHERMAN: I thought that this
2 is what we were going to discuss at the
3 hearing. I'm really not very familiar with
4 your procedure. And I -- I -- I thought that
5 there would be much more explanation of this.
6 And that I would be able to evaluate it
7 better.

8 CHAIRPERSON MILLER: Okay. So
9 what you're saying is you thought there would
10 be more explanation at the hearing about the
11 Sun Study that you were shown so that then you
12 would be able to evaluate?

13 MS. SHERMAN: Well, when you said
14 I was shown, it was -- it was put under my
15 door. And, yes. I thought I would be able to
16 better -- but the problem I'm having now is
17 that the study seems to show one thing but my
18 real experience shows something else.

19 Now, you know, I was -- we had
20 full sun yesterday so I was able to take
21 advantage of it and so I think it casts
22 questions on the whole study. I would like to

1 explore this further. It's very important to
2 me that this thing not just get sort of swept
3 under the rug because I'm supposedly losing
4 light for an hour a day. I think it's a lot
5 more than that.

6 CHAIRPERSON MILLER: Let me ask
7 the applicant's architect questions based on,
8 you know, the discussion that we're having.
9 And it's my understanding that, you know, one
10 reason -- just one reason that the experience
11 might match the study is because the study
12 doesn't really reflect day-to-day fluctuations
13 as to whether it's a cloudy day or whether
14 it's a sunny day or, you know, so she said one
15 day it might meet -- right? It sounds kind of
16 an exact -- it can't be.

17 MR. FOWLER: It wouldn't take into
18 consideration clouds unless I set the sun so
19 that it was not as bright which you can do.
20 But it is exact in that -- the printouts are
21 from specific days at specific times. So, if
22 you were out there at that day at that time

1 the sun angle would be that way.

2 Now, I didn't check yesterday so
3 none of the pictures that you've been
4 submitted would match that particular day.
5 The sun angles change every day slightly. So,
6 it's a little over simplified to say you're
7 going to lose an hour in the summer. It might
8 be an hour and five minutes on one day but a
9 week later it might be 45 minutes. It's just
10 -- you could go through every single day and
11 every single hour and watch what the sun does.
12 But, what I tried to do was pick reasonable
13 spaced days and times to get an understanding
14 of what the impact might be.

15 MS. KAFELE: And it assumes no
16 clouds at all, so it's assuming the brightest
17 sun for the particular times that are
18 selected.

19 MS. SHERMAN: Except, if I may,
20 these were not the actual days. These were
21 all calculations of days, were they not?

22 MR. FOWLER: I don't understand

1 your question.

2 CHAIRPERSON MILLER: You're saying
3 you --

4 MR. FOWLER: No. I didn't --

5 CHAIRPERSON MILLER: -- for
6 existing of even or whatever. It's not the
7 exact date. Well, you didn't go out and --

8 MR. FOWLER: I didn't go out there
9 that day and track the sun. The computer does
10 that for you.

11 MS. SHERMAN: The computer told
12 you what it would be like. You didn't
13 actually observe it?

14 MR. FOWLER: That is correct.

15 CHAIRPERSON MILLER: So, what
16 you're saying is that sun angles don't change.
17 So, it's based on the sun angles and what the
18 applicant is saying is based on sunny days.
19 It's not based -- it doesn't fluctuate, you
20 know, it could be cloudy, it could be sunny.
21 It's just based on the angles of the sun --

22 MR. FOWLER: Yes.

1 CHAIRPERSON MILLER: -- assuming
2 it's sunny.

3 MR. FOWLER: Yes. It's a computer
4 simulation of what the earth and the sun do
5 and when you put an object there, it casts a
6 shadow and as the day changes or the time of
7 year changes, that angle changes and the
8 computer will simulate that.

9 MEMBER DETTMAN: Can you also
10 explain in terms of what the model shows, the
11 difference between direct sunlight and
12 indirect sunlight or sort of reflected of
13 ambient light and what is shown in the model
14 and what isn't?

15 MR. FOWLER: That's a tougher
16 thing for the computer to calculate. Some
17 software does that.

18 For instance, at 4:00 in the
19 afternoon when the sun is on the opposite side
20 of the house, it will hit the side of the
21 Kafele's house and bounce light into their
22 rear windows.

1 Early in the morning, it will
2 bounce between the two properties and that's
3 how you get light down, you know, alleys and
4 stuff like that where what this software does
5 it doesn't -- it doesn't bounce the light
6 around like it does in real life. But what it
7 does do is it approximates how much, what this
8 -- it's called skylight you would have so that
9 in areas that are shadowed aren't completely
10 black.

11 So, this software approximates the
12 indirect light but the direct light is -- is
13 pretty much exact.

14 So, you do get a lot of light. I
15 guess, in response, you do get a lot of light
16 between those two houses that isn't direct
17 light, that is indirect light bouncing off of
18 something else and then to their window.

19 MS. FOWLER: In fact and to me
20 this looks like ambient light. I don't know
21 that there's any direct sunlight coming into
22 this space. That's just my interpretation.

1 I don't see any like beams of sunlight.

2 So, in fact, some of the ambient
3 light will increase because of the additional
4 -- they're going to get some light -- as the
5 sun is coming over to the west side it's going
6 to bounce on the side of their house which is
7 probably where a lot of light is coming from
8 and down into that five-foot space.

9 But I just -- I'm -- I wish I
10 could have seen this in person because I don't
11 know that this is direct light or just
12 bouncing light, indirect light.

13 MR. FOWLER: One way to tell is if
14 it was a sunny day, shadows from direct
15 sunlight are very crisp. You will see, you
16 know, your windows on your floor with the
17 panes and everything. Whereas, in ambient or
18 reflective light is fuzzier because of the
19 properties of the light.

20 CHAIRPERSON MILLER: Could you
21 just say again how they're getting ambient or
22 reflective light from your addition?

1 MS. FOWLER: Well, from the
2 existing -- well, the existing wall is
3 providing some ambient light because as the
4 sun comes up and it gets into that space and
5 it bounces off. It's a light gray color so it
6 does add some light -- indirect light to the
7 backs of those houses.

8 With the addition, in fact, it
9 will be blocking some direct light early in --
10 you know, that mid-morning time, but it even
11 potentially could add some ambient light
12 because it's an additional surface for light
13 to bounce off of.

14 I mean, we're not basing our aim
15 on that but it's just another point to make
16 that --

17 CHAIRPERSON MILLER: Are the
18 materials such that it would encourage further
19 bouncing off of light?

20 MS. FOWLER: It's going to be a
21 wood siding, probably a light color, probably
22 a similar color to what we have there. So,

1 yes. We would definitely choose a light color
2 to increase the ambient light if it helps.

3 And one other thing. I feel like
4 they're questioning the integrity of our Sun
5 Study and I just wanted to just point out
6 we're licensed architects. This is what we do
7 for a living and we're not trying to fool
8 anybody with the Sun Study. And it's in the
9 computer. It's extremely accurate. It's, you
10 know -- that's all. I just wanted to make
11 that point. We're not trying to pull the wool
12 over anybody's eyes with the Sun Study.

13 And if there are sight variations
14 from what she experienced, as Mike addressed,
15 it's from day to day it's going to change.
16 But, in general, it's that little window of
17 time that we're talking about whether it's the
18 45 minutes or if it's an hour and five
19 minutes.

20 MS. SHERMAN: May I address that?

21 I did not mean to impugn your
22 integrity. However, we don't know if there

1 are other ways of doing this that are better.
2 And that was the point I was trying to make.

3 MS. FOWLER: In my opinion, this
4 is the best way to do it because you can do it
5 by hand, but it's a lot less accurate. I
6 think you're basically -- Google Earth. They
7 have the entire, you know, it's all there.
8 All its satellite imaging. It's very
9 accurate.

10 CHAIRPERSON MILLER: Okay. Where
11 are we?

12 Did you -- did you both finish
13 your testimony?

14 MS. MAGES: No.

15 CHAIRPERSON MILLER: Okay. Ms.
16 Mages.

17 MS. MAGES: Sorry to disappoint.
18 No.

19 CHAIRPERSON MILLER: No. No.

20 MS. MAGES: I'm Lisa Mages from
21 534 9th Street.

22 And just case there are any

1 questions based on some things that I had said
2 previously, I did sign the petition that was
3 presented to me by Leon Kafele on September
4 15th of last year.

5 In doing so I believed that I was
6 signing to indicate that I'd been alerted to
7 a proposed project, that I was giving it, you
8 know, final approval and so I wanted to just
9 reiterate that the letter that was generated
10 from that petition presented to the ANC and
11 then was referenced in the Office of
12 Planning's thing being submitted to me was not
13 actually submitted by me or signed by me.

14 So, I just wanted to be clear
15 about that.

16 So, I wanted to address then these
17 issues of a reduction of direct sunlight. A
18 second issue the creation of a canyon effect
19 from my deck looking up at the Kafele's house.
20 and then a reduced view from the second floor
21 of my house.

22 My home has three areas which

1 receive direct sunlight from the east. That's
2 the deck, the breakfast area on the first
3 floor and an office on the second floor.

4 When the mock up across the north
5 front -- the north side of the house was
6 erected on Saturday I thought that, you know,
7 prior to that erection you know maybe it
8 didn't -- I wasn't sure what it would actually
9 look like, the effect of the sun. However,
10 since Sunday and Monday were both sunny days,
11 I did have an opportunity to observe the light
12 coming through both the breakfast area and the
13 office upstairs. And I'll give you these
14 photos. And I noted that as the sunlight was
15 coming through it was coming through the mock
16 up, that wooden frame. So, I'm noticing, oh,
17 when this is built, this will not be here.
18 So, that was really my first opportunity to
19 observe the sun in relation to that -- to that
20 mock up which is an understanding that I
21 didn't have before.

22 And I think from what we were

1 talking about earlier about diffused versus
2 direct, it looks like it's direct light. So,
3 I just want to give you these.

4 So, that's the first issue I'm
5 concerned about is the reduction of direct
6 sunlight.

7 The second one is the -- the
8 creation of a canyon effect from my -- from my
9 deck. I presently have a very limited
10 enclosed deck area with a limited view of the
11 sky. Again, I have photos that maybe will
12 give you an idea.

13 906 G Street is already the
14 tallest structure that I see when I'm sitting
15 on my deck. And then, you know, by seeing the
16 mock up I see that how it's going to be -- to
17 be higher. And, again, this may be --

18 CHAIRPERSON MILLER: Where is your
19 deck? Is it a roof deck?

20 MS. MAGES: No. It's a ground
21 level.

22 CHAIRPERSON MILLER: Is it like a

1 patio down at the bottom?

2 MS. MAGES: Yes.

3 CHAIRPERSON MILLER: Okay.

4 MS. MAGES: It's level with the
5 first floor. You just walk straight out onto
6 it so it's the first-floor level. And it
7 abuts the Kafele's backyard, same level with
8 the fence in between it.

9 We have been talking about going
10 back and forth. A lot of this that we're
11 talking are subjective factors that we're
12 trying to weigh here. And one of the factors
13 I have is that I already have a rather large
14 building that I look at and I don't want to
15 have a larger building.

16 So, for me that is -- give you
17 copies. That is a significant -- I mean, if
18 you want to call psychological effect, fine.
19 But that's what it is. And it would have a
20 negative impact on me in using that space.

21 And then thirdly, I have an office
22 on the second floor that's constructed --

1 essentially, it's at a right angle to the back
2 of 906. And I have a limited view of the sky
3 as it is and I am concerned about that being
4 reduced through additional height?

5 And in all of this whether we're
6 talking about the effects of sunlight or view
7 or how it feels to be in the space, I've
8 noticed through all of this it seems to be
9 that the premise for the proposal and why it
10 should be granted an exemption is that since
11 my neighbors and I have relatively little
12 direct sunlight and in my case a relatively
13 small view of the sky, that the loss of a
14 portion of these is inconsequential.

15 But, I mean, isn't it just the
16 opposite when one has little direct sunlight
17 and a small view of the sky, and loss of these
18 is very consequential. And that's why I'm
19 respectfully requesting that this application
20 for a special exemption be denied.

21 Thank you.

22 CHAIRPERSON MILLER: I have a

1 question for both of you.

2 I'm wondering, do you get indirect
3 light from the front of your houses that would
4 affect -- you know, that reach the back area
5 that we're talking about here?

6 MS. SHERMAN: The front of my
7 houses faces west so I get late afternoon sun
8 in the front but it does not reach the back of
9 the house.

10 CHAIRPERSON MILLER: Okay. So,
11 all the light basically that reaches the back
12 of the house that's being affected comes from
13 the back?

14 MS. SHERMAN: Yes.

15 CHAIRPERSON MILLER: Okay.

16 MS. MAGES: and in mine upstairs
17 the windows that face west it's a separate
18 room. So, the light from those windows is
19 contained in that room.

20 And on the first floor I have a
21 porch. So, the light that comes in from the
22 west is already kind of deflected by that.

1 So, it doesn't make it to the back.

2 CHAIRPERSON MILLER: We got a
3 couple of pictures here that don't have date
4 and time on it, by the way.

5 MS. MAGES: Oh, I'm sorry.

6 CHAIRPERSON MILLER: One with a
7 fence in it and --

8 MS. MAGES: Oh, I'm sorry.

9 CHAIRPERSON MILLER: I mean just
10 so -- you can do that sometime. You don't
11 have to do it right this minute --

12 MS. MAGES: Okay.

13 CHAIRPERSON MILLER: -- but just
14 so we'll know in the record.

15 MS. MAGES: Yes. I think the ones
16 with the light I didn't --

17 CHAIRPERSON MILLER: Yes.

18 MS. MAGES: -- time that but
19 you're right I need to identify what they are.
20 Okay.

21 CHAIRPERSON MILLER: Okay. Are
22 there other Board questions?

1 Does the applicant have any
2 questions?

3 MS. FOWLER: Just to go through
4 her points.

5 As far as the petition it did say
6 that clearly on the petition that -- it says,
7 you know, we've reviewed these plans and
8 support the proposed addition and she did sign
9 that. So, that's -- you know, all this time
10 we were under -- we had the understanding that
11 she was in support of the project. So, I just
12 wanted to make that clear that it was -- it
13 was on the paperwork there.

14 I -- we built the mock up on
15 Saturday and actually met with Ms. Mages and
16 her husband twice over the weekend. And I
17 just -- I left the meeting. They basically
18 said that they were okay with it, that they
19 weren't happy, but they were fine as long as
20 it didn't go any higher than what they saw at
21 the back. And I felt that we were at a good
22 point there. And so we're kind of surprised

1 that she's still in opposition.

2 But I just wanted to note. We did
3 work with them and we tried -- we felt like we
4 were at a point where they were agreeable to
5 the project.

6 CHAIRPERSON MILLER: I'm sorry,
7 with whom?

8 MS. FOWLER: With Ms. Mages.

9 CHAIRPERSON MILLER: With Ms.
10 Mages. Okay.

11 MS. FOWLER: But another point is
12 that the -- they talk about light and view but
13 keep in mind that the mud room, that rear
14 structure is coming down which obviously is
15 not a very nice view as you can see from this
16 picture. And it is blocking some air and
17 light. So, that's going to be coming down.

18 CHAIRPERSON MILLER: It's not
19 clear, especially for the record, what picture
20 you're talking about. What does that show?

21 MS. FOWLER: This is a picture Ms.
22 Mages handed you and this portion right here

1 is the mud room which is going to be
2 eliminated. So, it will -- the property will
3 go to here.

4 So, we're -- essentially, it's
5 increasing the setback and decreasing the lot
6 occupancy. So, in my mind we're improving her
7 views at least from the first floor a little
8 bit so she'll be able to see kind of
9 additional greenage -- green space beyond that
10 mud room once it's gone.

11 That's all.

12 MS. KAFELE: I would just like to
13 say we were talking a little earlier about a
14 three-hour window and you lose one hour.

15 I don't think three hours is the
16 correct definition of the test respectively.
17 The reason is, if we looked -- I think the
18 correct definition is looking at the whole day
19 frankly. And we just did a snapshot because
20 we think that's the time period where there's
21 arguable effect and to show it. But if you
22 looked from sun up to sun down, where their

1 sun is, the impact is whatever 45 minutes or
2 a little over an hour, whatever it is at the
3 time of the day for the whole day.

4 So, I think you have to look at
5 the broader of the test.

6 CHAIRPERSON MILLER: Can I ask you
7 on that. Also, we're not talking about one
8 year every day all year, we're talking about
9 one year during the summer? Is that what that
10 study showed? I mean one hour during the
11 summer? We're kind of like generalizing here,
12 but is that correct?

13 MR. FOWLER: It changes -- it
14 changes throughout the year. But the most
15 impact is during the summer. Yes. But from
16 a day-to-day basis, it will change.

17 MS. KAFELE: The other thing I
18 would like to say is with respect to Ms.
19 Sherman's point about whether there's a better
20 way to examine the impact of the light or what
21 not, this has been her concern from day one
22 since knowing about the project. And, you

1 know, she's had every opportunity to conduct
2 some sort of study or look at it herself since
3 that time and especially since the time we
4 gave her the original Sun Study or to get an
5 expert to look at that original Sun Study
6 before today.

7 So, I think that there has been --
8 this is her issue and she, you know, had the
9 opportunity to fully examine it frankly.

10 MS. SHERMAN: May I address that?

11 As I said I've been out of town
12 most of December. And I think that we all
13 agree that the study was made available
14 sometime during the month of December. So, I
15 really did not have time to do any of that.

16 The application apparently started
17 out in September and there wasn't any study
18 then. There would have been time if it had
19 come to me in September.

20 MS. KAFELE: One last thing for
21 the record though.

22 When I first went to Ms. Sherman's

1 house to talk to her about the project it was
2 a conversation that was included the basement
3 that we were doing, excavating as well as this
4 proposed third story and just explanation of
5 what we were doing entirely. So, that was
6 when she was first notified of what we were
7 doing and I had the drawing. Obviously,
8 they've been scaled back. It's lower than
9 that point in time.

10 MS. SHERMAN: Excuse me. You
11 didn't ever show a drawing. You described the
12 project. I never saw a drawing.

13 MS. KAFELE: Okay. Well, I
14 respectfully disagree. In your kitchen I had
15 the drawings. But nonetheless there was
16 notice at that point in time of the project.

17 CHAIRPERSON MILLER: Okay. I have
18 a question, another point for the applicant.
19 And that is, you've modified your project as
20 you've been working with HPRB and I just want
21 to know. Are any of the -- is the
22 diminishment in light caused in part by HPRB's

1 suggesting that you push the addition back
2 into the rear yard or back that way?

3 MS. FOWLER: No. The addition --
4 the footprint of the addition has remained
5 approximately the same. The only thing that
6 we did was we -- the front corner. These
7 things don't affect them.

8 This front corner right by the
9 stair was originally about seven feet from the
10 side of the house and we pushed it back to 10
11 feet. So, that pushed back and then
12 everything went down. And then this wall was
13 originally a curved wall and we made a
14 straight line because that curve kind of made
15 it a little bit more visible.

16 So, really the changes were those
17 as well as the overall height. And the
18 overall height is what -- what has improved
19 the situation for the neighbors on 9th Street.

20 CHAIRPERSON MILLER: Okay. All
21 right.

22 Now, you need to shut your mike up

1 if you're off speaking because -- okay.

2

3 I think we have finished with your
4 testimony. Is that correct? You gave
5 testimony. We've asked all the questions.

6 MS. FOWLER: I have one more
7 comment.

8 CHAIRPERSON MILLER: Well, you
9 have a chance for rebuttal so --

10 MS. FOWLER: Okay.

11 CHAIRPERSON MILLER: -- I think
12 that's where we are. I wanted to make sure
13 where we are in the process.

14 Any other Board questions for the
15 party status applicants? And you are party.

16 Okay. Yes, Ms. Fowler. This is
17 time for rebuttal, closing argument.

18 MS. FOWLER: Okay.

19 I think I've addressed most of
20 their comments. There was one that I didn't
21 address before.

22 Ms. Sherman mentioned that there

1 was 50 percent less light and I just wanted to
2 make it clear. She's saying she's losing half
3 of her light. But it's just in the upper
4 windows. It's not -- the way that she was
5 stating it it made it sound like we're
6 blocking half of the light to the back of the
7 house. But we're really only blocking just for
8 short periods of time, part of the upper
9 windows. I just wanted to make that clear.

10 MS. KAFELE: You know, I think
11 this is all a matter of interpretation of what
12 is substantial and impact on what's not. And
13 I just -- in my opinion we have again gone to
14 great lengths with the Sun Study, spending
15 \$1,000 to do a mock up again to address these
16 and to make changes to the design that have
17 impacted in a positive way the situation for
18 the neighbors.

19 And ultimately I think, you know,
20 it comes down to a portion of the day. We can
21 dispute whether it's 45 minutes or an hour and
22 a half during most of the seasons where there

1 is a slightly less amount of light. And I
2 frankly think that we live in an urban
3 situation. We're very, very closely situated
4 and that -- especially in that context should
5 not constitute a substantial impairment to
6 impact another family's ability to continue to
7 stay in their property under their expanding
8 family.

9 Thank you.

10 CHAIRPERSON MILLER: Okay. Is --

11 MR. FOWLER: Can I say -- sorry.

12 Can I say one more thing?

13 CHAIRPERSON MILLER: Yes. Okay.

14 MR. FOWLER: I just wanted to
15 address these photographs.

16 Look at them quickly with what I
17 have printed out here. Unfortunately, they
18 weren't taken the exact same time as the times
19 that I printed out. So, you can't do an
20 apples to apples comparison. But it is -- the
21 angle would be sometime between what I show as
22 winter and then spring and fall. Which --

1 CHAIRPERSON MILLER: Can you
2 describe while the photograph so that -- I
3 don't think they're numbered or anything yet.

4 MR. FOWLER: This has dates and
5 times, 9:00 a.m. on the 21st of January.

6 CHAIRPERSON MILLER: That's what
7 the book shows in it?

8 MR. FOWLER: Yes.

9 CHAIRPERSON MILLER: Okay.

10 MR. FOWLER: And this one isn't,
11 but it was this past weekend.

12 CHAIRPERSON MILLER: That's the
13 kitchen?

14 MR. FOWLER: Yes. This is the
15 kitchen.

16 This -- the light based on my
17 interpretation of what I've learned from
18 building this model and putting a light on it,
19 this light won't be blocked. It might be
20 blocked at certain times, you know, here or
21 lower. I can't say exactly. But the light
22 that you see coming in this window here will

1 still be there.

2 At certain times of the year, at
3 certain times in the morning, it might be
4 less. But it's not going to block all the
5 light.

6 The property, the one furthest
7 from the back of the house which was where
8 these photographs came from is impacted a lot
9 less and just because it is further away from
10 the project.

11 This one here and you can see the
12 difference in the light that's coming in the
13 window. I'm not convinced that that's direct
14 light shining on the floor there and just that
15 it's so different looking than the direct
16 light in this photograph.

17 CHAIRPERSON MILLER: And just for
18 the record when you say shining on the floor
19 there you mean in the kitchen photograph?

20 MR. FOWLER: The kitchen. The
21 light you see - the lighted area is near the
22 window on the stove, on the countertop, on the

1 floor here. In my opinion it looks like it's
2 reflected light, ambient light. Skylight,
3 light that's bouncing off the wall that's
4 directly across because it's very different
5 looking than this light which is direct light
6 which is shining through the window and
7 putting crisp shadows on the wall.

8 CHAIRPERSON MILLER: Would you
9 just describe that other photo that you're
10 referring to so that the record reflects which
11 one -- the crisp --

12 MR. FOWLER: The one with the red
13 door.

14 CHAIRPERSON MILLER: No. That one
15 is the kitchen I know.

16 MR. FOWLER: Okay. This one is
17 the -- it looks like the little table in the
18 corner of a kitchen.

19 CHAIRPERSON MILLER: Oh, it's a
20 different kitchen or is that the kitchen?

21 MR. FOWLER: This is the next --
22 this is --

1 CHAIRPERSON MILLER: Different
2 house?

3
4 MR. FOWLER: 934 and this is 936.
5 Two different houses.

6 CHAIRPERSON MILLER: Okay. So,
7 you're comparing it to the 934.

8 MS. MAGES: 534.

9 CHAIRPERSON MILLER: 534. 534
10 house. Okay. Thank you.

11 MR. FOWLER: My point is that this
12 light -- the amount of light you see in this
13 pictures in my interpretation will not change
14 at all based on -- because it's not direct
15 sunlight. The amount of light in this picture
16 with the proposed addition would not change.

17 This one might change but it would
18 be a minimal change, just the very bottom of
19 what you see as the direct light might be
20 blocked off.

21 VICE CHAIRMAN LOUD: Was it
22 further your testimony that the project might

1 actually increase the ambient light as well?
2 Clear that it won't reduce is based on your
3 testimony?

4 MR. FOWLER: It won't reduce it.
5 It might increase it. I wouldn't -- I
6 wouldn't argue that it's going to improve the
7 light in her kitchen to a degree that she
8 could even notice it. But it certainly won't
9 diminish ambient light.

10 CHAIRPERSON MILLER: Anything
11 else? Okay.

12 This is what I would like to
13 suggest and hear from my Board members if they
14 think otherwise or if you all have a comment.

15 But as I said at the beginning
16 sometimes we make our decision the same day
17 and sometimes we postpone to our next decision
18 meeting date. And I would suggest in this
19 case that we do postpone this one until our
20 next decision date which is February 5th and
21 this has taken a lot of time and there are
22 some issues that the opposition would like to

1 address.

2 So, I would recommend that we
3 leave the record open for the opposition party
4 to submit any evidence or written filings with
5 respect to the Sun Study or the effect of
6 light on the property. And the applicants
7 could have an opportunity to respond to that.

8 We can go over that schedule, how
9 that would be -- what the briefing schedule
10 would be. I think that that's a fair date in
11 that the applicant is waiting anyway for a
12 decision from HPRB and wouldn't prejudice the
13 applicant to wait until that point. And then
14 the opposition would have an opportunity to
15 show the Sun Study -- the most recent one, the
16 one that's going to be used to someone else
17 for an expert opinion.

18 And basically that's what I've
19 heard that you would like more time to address
20 that.

21 MS. SHERMAN: So, would that be 12
22 days from no?

1 CHAIRPERSON MILLER: No. It would
2 actually be less unless, you know, we hear
3 good argument why it should be more. But our
4 decision date would be February 5th. So, when
5 would -- what's the latest date that the
6 opposition could file their filing with time
7 for the applicant to respond?

8 I don't think the applicant would
9 need a long time to respond but you would like
10 an opportunity to respond?

11 MS. FOWLER: Yes. Definitely.

12 CHAIRPERSON MILLER: Okay.

13 MS. BAILEY: Madam Chair, I would
14 suggest on next Tuesday which would be the
15 29th and if I'm not mistaken, the applicant
16 indicated that they would be going to HPRB on
17 the 31st which is next Thursday. So, perhaps
18 they would file that next day which is the --
19 February 1st.

20 MS. SHERMAN: I don't think that's
21 enough time for us.

22 CHAIRPERSON MILLER: Okay. You

1 know, we'll look into your argument about that
2 we've heard somewhat and I want to hear from
3 other Board members too.

4 How much time do you want then?

5 MS. SHERMAN: I have to contact
6 somebody and arrange for this. And so I can't
7 tell you right this minute. But it sounds to
8 me like it's already Tuesday. A lot of people
9 don't work on weekends. And so basically it
10 sounds to me like I have four working days and
11 I do work for a living. I can't spent all my
12 time doing this. So, I don't think it's a
13 reasonable amount of time to expect me to come
14 up with something, you know, and it may even
15 be a new study.

16 CHAIRPERSON MILLER: Ms. Fowler,
17 do you have a position?

18 MS. KAFELE: Just going back to
19 what I said before, she's had the original Sun
20 Study for quite awhile now. So, --

21 MS. SHERMAN: I think I addressed
22 that.

1 MS. KAFELE: There has been plenty
2 of opportunity to conduct an alternative or a
3 study or have an expert critique it or what
4 not. So, I feel like the Board is going above
5 and beyond to give additional time on top of
6 that. To continue to give more just sets back
7 our project further and further, frankly,
8 keeps costing us more and more money.

9 So, I ask that it be balanced
10 against that as well.

11 CHAIRPERSON MILLER: Okay. Any
12 comment and then I want to hear if Board
13 members feel otherwise.

14 I am of the view that Ms. Sherman
15 was on notice when she got the other Sun Study
16 and didn't do anything about it. And,
17 therefore, I'm not sure why the applicant
18 should be delayed very longer in getting a
19 decision in this case.

20 I don't know how long it takes to
21 get another opinion. I'm of the impression
22 that if it took the Sun Study to someone that

1 they could check it out fairly quickly. But
2 that might be wrong.

3 Mr. Dettman, you have experience
4 with sun studies. Do you have a comment on
5 this?

6 MEMBER DETTMAN: Madam Chair, I
7 would be inclined to agree with your -- with
8 what you just said, if the first shadow study
9 matched the plans that we're looking at right
10 now.

11 The plans have since changed and
12 that shadow study has not been served upon the
13 neighbors for an adequate amount of time to
14 analyze.

15 And so I would prefer providing
16 the parties an adequate amount of time for
17 them to review, get professional consultation,
18 what have you. However, just so -- just so
19 the party is clear what I would actually be
20 looking for in their response is that, you
21 know, it's one thing to actually show the
22 shadow study to a professional and then just--

1 and submit something to the Board saying we
2 think there's a different way of doing this.

3 We've established that there are
4 different ways to do this. I think that
5 there's tools out there that could actually
6 quantify the loss of the amount of sunlight.
7 However, again, even if we have that number,
8 and how much there is a reduction, it's still
9 up to the Board to decide whether or not 50
10 percent or 20 percent or 30 percent is
11 substantial.

12 And so what I wouldn't want to see
13 is just a written document saying we think
14 that there's a different way of doing this.

15 The tool that the applicant shows
16 was a SketchUP. It's a pretty good tool. I
17 think that all of the tools regardless of
18 their level of complexity model pretty much
19 the same things. So, it would be whether or
20 not the data input into this model was
21 accurate and if it wasn't, tell us why. And
22 if you feel that there's a better way of doing

1 it, there's a better tool out there to better
2 inform the Board, then it would be up to you
3 to conduct that study and provide that for the
4 Board for analysis.

5 CHAIRPERSON MILLER: So, what do
6 you think is an adequate amount of time then
7 with respect to the schedule here?

8 MEMBER DETTMAN: If the party is
9 correct in saying that she only has four days,
10 I'm not so sure that would be enough. I think
11 that this requires a little bit more than four
12 days to coordinate with a professional.

13 I'm not sure when our next -- I
14 assume our next meeting date would be a month
15 from -- would be sometime in March? Is it?

16 CHAIRPERSON MILLER: After
17 February 5th?

18 MEMBER DETTMAN: That's right.
19 And do we have any special public meetings
20 scheduled? There's a special public meeting
21 on February 12th.

22 CHAIRPERSON MILLER: Well, if it

1 were moved to February 12th and I'm not saying
2 that it should be just because we have a
3 special public then. We might be adding too
4 much to that day's agenda.

5 You know, if there's -- if there's
6 some kind of urgency, you know, in moving a
7 decision out, we can schedule a special
8 meeting on any of our Tuesdays. It just adds
9 to the agenda and sometimes the, you know,
10 delay in reaching other cases.

11 So, I guess I would just be
12 interested in, you know, hearing from you
13 like, you know, okay. Four days is too
14 rushed, you know. Is the 12th a good date or
15 we're balancing -- we're balancing the
16 opposition time to prepare their filing with
17 the applicant time to have their decision out
18 and so they can move forward and not be
19 delayed in costs and other things.

20 And then in the context of, you
21 know, fairness.

22 So, is the 12th in your view

1 sufficient time?

2 MEMBER DETTMAN: Working under the
3 assumption that the study that's been done is
4 accurate, and that the party just wants to put
5 this study in front of her own professional to
6 verify that the inputs are correct and the
7 data is valid, I think that the 12th would be
8 a perfectly fine date.

9 CHAIRPERSON MILLER: Okay. Let me
10 go back to you too.

11 And basically what Mr. Dettman has
12 said and he has experience in this area and
13 Ms. Fowler was saying that the type of study
14 that they used is a reliable one, you know,
15 that this Board can look to.

16 But that being said, you know,
17 what's a reasonable amount of -- what's a
18 reasonable amount of time for what you would
19 like to get into the record?

20 MS. SHERMAN: I guess that depends
21 on the schedule of the people we consult with.
22 If they could accommodate us right away, that

1 would be fine. If they can't I guess we're
2 out of luck.

3 MEMBER DETTMAN: Madam Chair, if
4 we did schedule this for February 12th, what
5 would the filing date be?

6 CHAIRPERSON MILLER: Ms. Bailey.

7 MS. BAILEY: I would suggest
8 February 5th in order to give the applicant a
9 couple of days to respond.

10 So, the parties in opposition
11 would file on the 5th and the applicant would
12 file on the 8th. And, of course, the Board's
13 decision is on the 12th.

14 CHAIRPERSON MILLER: Okay. I
15 think that's what we're going to do unless I
16 have any other -- hear anything else.

17 MS. MAGES: So, that means papers
18 into the Board by February 5th.

19 MS. SHERMAN: We will try. I
20 would hope that if we run into trouble, we can
21 make an application to the Board for an
22 extension?

1 CHAIRPERSON MILLER: You can make
2 an application and then the Board would again
3 be weighing, you know, the reasonableness and
4 the prejudice.

5 Okay. So, I would try for that
6 date. Okay.

7 Is there anything else?

8 MS. BAILEY: Did you want to --

9 VICE CHAIRMAN LOUD: I'm sorry for
10 clarification. Is that witness week?

11 MS. BAILEY: No. I was asking did
12 you want the Office of Planning to weigh in on
13 this?

14 CHAIRPERSON MILLER: That's a very
15 good idea. Yes. I always like the Office of
16 Planning to weigh in if that's possible.

17 Thank you.

18 VICE CHAIRMAN LOUD: Point of
19 clarification from me.

20 So, are we limiting the expert's
21 review to what Mr. Dettman said and there's no
22 new shadow study or is this time going to be

1 allowable to the party opponent to get a new
2 shadow study?

3 CHAIRPERSON MILLER: I don't think
4 we're limiting what, in my view, what the
5 opposition can submit to make their point that
6 their life is going to be unduly impacted even
7 if that's a new shadow study.

8 I think what Mr. Dettman was
9 saying and you can correct me if I'm wrong,
10 Mr. Dettman, was that it won't be sufficient
11 if you just say there are better ways to do
12 this. If there are better ways, then you --
13 and you want it done that way, that would be
14 your responsibility to do it.

15 It wouldn't be the applicant's in
16 my view, unless you persuaded the applicant
17 otherwise that they weren't going to be able
18 to meet their burden of proof.

19 Okay. Mr. Hood.

20 MR. HOOD: Chair, is this -- yes.
21 I want to thank Ms. Bailey for bringing that
22 up because that was one of my issues why I hit

1 the mike, Office of Planning.

2 The other thing is will this allow
3 enough time -- supposedly the study if -- if
4 Ms. Sherman -- well, Ms. Sherman gets someone
5 to do her study and she runs the risk of
6 somebody not accepting the job. And I
7 understand that. She runs the risk of that
8 not even happening actually because as we said
9 they may not have enough time. So, I already
10 understand it going forward.

11 But does that allow time for
12 comment if somebody shows up with the shadow
13 study that totally just is in difference to
14 what the applicant has presented? Do we have
15 enough time allotted in that whole equation?

16 And I'll yield to you, Madam
17 Chair, but I just wanted to make sure.

18 CHAIRPERSON MILLER: Let me just
19 ask the applicant this then.

20 If we were to just move this to
21 March 4th and therefore, you know, be assured
22 that we're not going to need any extensions of

1 time, that everybody is going to have enough
2 time. I would feel that way if we took the
3 March 4th deadline, that that's it, you know.
4 That we would be assured of having all the
5 information in the record without any requests
6 for extension of time.

7 Would that prejudice the
8 applicant?

9 MS. FOWLER: I feel like we've,
10 you know, we've already waited this long to
11 get our hearing and we've -- you know, like we
12 said, they've had the sun studies for quite
13 sometime and I think we're willing to wait
14 until the 12th. I think that's within reason.
15 I think pushing it into March is just too
16 long.

17 And what happens if they come back
18 with another Sun Study that conflicts ours?
19 Who is to say who is right? And then we'll
20 have another hearing because we'll have to get
21 experts to validate our experts. I mean,
22 where does it end at that point?

1 CHAIRPERSON MILLER: My
2 understanding is if they come up with another
3 Sun Study, that you would have a chance to
4 address that in your filing.

5 Okay. this is what I would
6 suggest that we stick with the February 12th
7 day, given that we have a study that the Board
8 thinks is reliable. You know, I don't think
9 that we have a real issue that we're concerned
10 about. But we want the opposition to have a
11 chance to address it if they'd like.

12 So, I say we stick with the
13 February 12th. If we run into a real problem
14 we can always extend it.

15 MS. KAFELE: I would just like to
16 add one more thing on the timing. I accept
17 your decision on that. To the extent there is
18 an application at a later date for an
19 extension of that, I would like to throw an
20 additional fact in the mix so that you may
21 consider it at that time.

22 And that is, we do have

1 construction going on in our home right now in
2 the basement, they're excavating that and
3 doing it. And because of that I have a new
4 baby that's only two months old and she had
5 gotten sick so we had to move out of the home.
6 We made that decision obviously on our own and
7 that's fine. But, you know, our thought
8 process in doing so would be that hopefully
9 this would continue to roll into the next
10 phase of the project should we get approved.
11 I understand there's risks we were taking with
12 that. I accept that. But it's just that the
13 more we extend this out there is that
14 prejudice to us.

15 And I accept my responsibility and
16 that I just want to throw that into the mix of
17 the facts.

18 CHAIRPERSON MILLER: Thank you.
19 I'm glad you told us that because, you know,
20 we do weigh the prejudice to both of the
21 parties. So --

22 Yes, Mr. Dettman.

1 MEMBER DETTMAN: Just quickly,
2 Madam Chair.

3 I think this is the right
4 direction to go. The only thing I can see
5 that could result in a request for an
6 extension is that if the party comes back and
7 says, you know, we found that this study is
8 absolutely flawed and we need time to conduct
9 our own study.

10 So, I guess I would suggest to the
11 applicant that possibly when you can, as soon
12 as possible, get together with the party,
13 share with them the actual information that
14 went into the model and if you have it,
15 provide them with the actual data that went
16 into the model. So, if they do decide to go
17 to another professional to have another study
18 done, maybe they could potentially use the
19 same data. Give them whatever information
20 they need in order to analyze this in terms of
21 its accuracy and its technique.

22 CHAIRPERSON MILLER: Okay. You

1 don't have a problem with that will that do?

2 Okay.

3 All right. Anything else?

4 Ms. Bailey, would you just like to
5 review the dates then please?

6 MS. BAILEY: Madam Chair, there
7 was so much noise going on. Would you just
8 like for me to repeat those dates?

9 CHAIRPERSON MILLER: Yes. Please.

10 MS. BAILEY: February 5th
11 submission from the opposition parties. And
12 just a reminder that you are to serve not only
13 the Board but the opposition and a copy to the
14 ANC as well.

15 The response from the applicant is
16 due February 8th and then the Board is
17 scheduled to decide the case at a special
18 public meeting on February 12th.

19 CHAIRPERSON MILLER: And the
20 Office of Planning would also be responding on
21 the 8th?

22 MS. BAILEY: February 8th.

1 CHAIRPERSON MILLER: Well, let me
2 ask Office of Planning.

3 Would you want to respond after
4 the applicant has responded or that would be--
5 what day of week would that be, February 9th?

6 MS. BAILEY: February 9th is on a
7 Saturday.

8 CHAIRPERSON MILLER: Saturday. Do
9 you think that that -- you know, just so that
10 we have -- so that you have the information
11 that you need to take a position, would you
12 want to respond on the 8th or that Monday?
13 Monday morning?

14 MR. GOLDSTEIN: I guess a lot of
15 it depends on what we learn. Whatever the
16 Board would prefer us to do. I guess,
17 perhaps, more information is better typically.
18 I don't know that the Office of Planning will
19 necessarily be able to resolve competing
20 shadow studies. They can certainly give an
21 opinion on it.

22 If you'd like us to be able to

1 review both sides, we're certainly fine with
2 trying to do that.

3 CHAIRPERSON MILLER: Okay. I
4 guess the applicant is not going to be
5 submitting any new information. So, I would
6 say if you could respond with the applicant on
7 the 8th, just because that is a Friday and
8 then the Board would have all the materials it
9 needs over the weekend to review the file.

10 So, okay. Let's Office of
11 Planning on the same day as the applicant.

12 Okay. Anything else? Okay.

13 I think that concludes this case
14 then.

15 Oh, Ms. Fowler. Yes.

16 MS. FOWLER: Sorry. When we
17 respond, do we also need to copy the ANC and
18 opposition as well?

19 CHAIRPERSON MILLER: Yes.

20 MS. FOWLER: Okay.

21 CHAIRPERSON MILLER: And Office of
22 Planning. Okay.

1 Okay. Thank you very much.

2 (Whereupon, off the record from
3 12:54 p.m. to 1:07 p.m.)

4 CHAIRPERSON MILLER: Okay. We are
5 back on the record.

6 I would like to note we are at our
7 third case in the morning, even though it's
8 1:00 in the afternoon so anybody who is here
9 for the afternoon session we won't be starting
10 that for at least an hour at the earliest so
11 just so you know that. And then we'll
12 announce that exactly when we're gong to be in
13 the afternoon session when we finish the
14 morning session.

15 Okay. Ms Bailey, would you call
16 the next case please?

17 MS. BAILEY: Madam Chair, the last
18 case of the morning is that of Kathryn Hodges.
19 Application number 17707 and it's pursuant to
20 11 DCMR 3103.2 for variances from the lot area
21 and lot width requirements under Section 41
22 and variance from the side yard requirements

1 under Section 45 to allow the construction of
2 a new semi-detached dwelling in the R-2
3 District at premises 5369 Hayes Street, NE,
4 Square 5209, Lot 29.

5 The applicant had initially filed
6 an affidavit of posting that wasn't quite
7 correct. That since has been corrected and I
8 do have a revised copy to pass out to the
9 Board.

10 And then lastly there is a request
11 for party status in opposition to the
12 application.

13 CHAIRPERSON MILLER: Good
14 afternoon.

15 MS. HODGES: Good afternoon.

16 CHAIRPERSON MILLER: Would you
17 start by introducing yourself for the record
18 please?

19 MS. HODGES: Hi. My name is
20 Kathryn Hodges. I live in Silver Spring,
21 Maryland, 14112 Sturtevant Road, Silver
22 Spring, Maryland.

1 CHAIRPERSON MILLER: Thank you.

2 Ms. Bailey -- oh, she disappeared.

3 You can use this microphone too.

4 There's not a question with
5 respect to the Board needed to waive any
6 requirements of posting, is there or is there?

7 MS. BAILEY: The affidavit was
8 incorrectly completely and now it has been
9 completed and all posting requirements have
10 been met.

11 CHAIRPERSON MILLER: Okay. than I
12 don't think there's a need for a waiver in
13 that there's no question that you complied
14 with the posting requirements.

15 MS. HODGES: No. Unfortunately --

16 CHAIRPERSON MILLER: Okay.

17 MS. HODGES: Unfortunately, I just
18 misunderstood the date that you were asking
19 for on the form.

20 CHAIRPERSON MILLER: Okay. And
21 let ms ask is Ms. Gibson is here. She is the
22 one who has filed a party status application.

1 Okay. Well if she's here -- if
2 she's not here, we won't be granting party
3 status for today because she won't be able to
4 participate in the hearing.

5 I have an initial question for
6 you, Ms. Hodges.

7 In reviewing the application file
8 it's evidence that Office of Planning is of
9 the opinion that you needed another variance
10 here from 405.3 or you need to revise the
11 application.

12 So, I'm wondering if you could
13 address that initially?

14 MS. HODGES: Okay. Initially,
15 when I filed my application it was to get a
16 variance for the square footage of the vacant
17 lot and the side yard requirement. I
18 submitted my application based on -- there are
19 three vacant lots where the lot that I'm in
20 contract to purchase.

21 There was a lot in the center
22 that's right next to mine that was already

1 approved by the Board back in November of
2 2006. The Application 17511 in which my
3 variances that I'm trying to obtain today are
4 exact duplicate of what's been approved
5 before.

6 And what I am proposing to do is
7 to build on a 2,500 square lot a semi-detached
8 home or detached home where also I'm asking
9 for a side yard requirement. It's usually
10 eight feet. I'm requesting a variance to get
11 five feet. And my application submitted, it's
12 requesting that it build on the property line,
13 on the east side of the property line.

14 And I just want to point out that
15 the previous application that was approved by
16 the Board in November '06 that house that was
17 going to be built it too was going to be built
18 on its east property line.

19 So, I more or less was just
20 following along with what had been approved
21 insuring that there was adequate space between
22 my house and the one that would have been

1 build next to it. There would have been a
2 five-foot space between the two property
3 lines.

4 And keep in mind that that
5 application had already been approved with the
6 variance of having five feet on its west side.

7 CHAIRPERSON MILLER: Okay. And I
8 think it would probably be a good idea if
9 Office of Planning weighs in on this as well.
10 But I understand that this is a lot that's
11 right next door to the lot you're talking
12 about. Correct?

13 MS. HODGES: Yes.

14 CHAIRPERSON MILLER: Okay. When
15 we grant variances we look at each case
16 specifically. Okay. So, we need to look at
17 your case specifically and, you know, maybe it
18 is the exact same situation or maybe it isn't.
19 I think the Board would need to hear, you
20 know, the reason why we granted it for that
21 property. You know, that property, is it
22 exactly the same or not? They may be next

1 door but they may not have the exact same
2 circumstances. I don't know. I have to look
3 at that.

4 Do you want to address that
5 further or should we ask the Office of
6 Planning at this point just about this initial
7 question?

8 MS. HODGES: Perhaps the Office of
9 Planning could weigh in that being that I
10 shared that information with them and I
11 believe he had a chance to take a look at it
12 to see that, you know, the lot sizes are the
13 same. And I basically just duplicated what
14 was there.

15 CHAIRPERSON MILLER: Okay. And
16 the reason I'm bringing this up initially and
17 it a lot of the meat of this case. But, you
18 know, I didn't know whether you were
19 considering revising the application or
20 whether you were instead going to be asking us
21 to add relief -- variance relief from 405.3.

22 MS. HODGES: Okay.

1 I guess I was interesting in
2 seeing if you would grant the variances that
3 I requested before you already and if not if
4 I did go with an alternate plan, does that
5 entail going through the whole BZA application
6 all over again which takes quite a bit of
7 time?

8 CHAIRPERSON MILLER: That's right.

9 MS. HODGES: Because I'm -- this
10 lot that I'm in contract to purchase it's
11 contingent upon, you know, the outcome of the
12 hearing and I don't know if the owner is going
13 to be willing to, you know, go through
14 possibly close to another year's time period.

15 So, if I did some alternate
16 variation. Say instead of building this home
17 on the property line of 20 feet, if I were to
18 agree to do the 17 foot centered houses with
19 four feet side yard on either side, how long
20 would that process? Is that a process --

21 CHAIRPERSON MILLER: If your
22 question -- if your question is if you were to

1 revise your application in order to meet the
2 concerns that Office of Planning raised with
3 respect to 45.34, you know, centering the
4 property, that the building were in the
5 property, at this stage in the hearing there
6 would not much of a delay.

7 You would have to submit revised
8 plans but you would not have to start again.
9 You'd have to start again if you -- if you
10 decided to go with your original plan and we
11 denied it. Then you would have to start
12 again. Otherwise, you could -- right. If we
13 denied it. It's not to say you couldn't ask
14 us for a variance on it abutting the property.
15 But-- do you understand what I'm saying? It
16 wouldn't be a big delay. I mean, I think we
17 could even have a hearing today but then not
18 issue the decision until we got the revised
19 plans.

20 MS. HODGES: Oh, okay.

21 CHAIRPERSON MILLER: But I think
22 that's how we proceeded before.

1 If we -- if we think that we have
2 before us all the facts and know what we're
3 addressing, even though the plans in the
4 record right this minute, you know, don't
5 reflect that, that's what we do.

6 We'll leave the record open and
7 get your plans, make sure that they meet with
8 what we discussed and what we're ruling on and
9 then we issue a decision.

10 MS. HODGES: Okay. That's fair
11 enough.

12 CHAIRPERSON MILLER: Okay. Do you
13 want to revise your plans at this point?

14 MS. HODGES: Yes. Well, being
15 that -- it might be best because of what
16 Office of Planning -- OP is recommending, it
17 might be best for me to do that. In which it
18 wouldn't be -- it wouldn't be a whole lot of
19 difference only that the house would be
20 smaller in nature in terms of the width and
21 having the four feet side yard on either side.

22 What do I need to do at this

1 point, I mean, just state it for the record?

2 CHAIRPERSON MILLER: I think -- I
3 mean this case is pretty straightforward and
4 the arguments that affect the other relief
5 that you're seeking with respect to lot width
6 and side yard and then Office of Planning,
7 you know, if I'm not mistaken should be able
8 to address them the same way.

9 They are the same basically as in
10 your present application. The calculation may
11 be just a little bit different but they don't
12 seem in my mind to change our analysis.

13 So, what you would need to do is
14 we'd leave the record open for you to submit
15 an updated application reflecting the changes
16 to meet Office of Planning's concerns and you
17 would submit the actual revised plan.

18 MS. HODGES: Okay. Oh, one
19 question.

20 Will -- does that allow for
21 opposition to come in as well? If no one is
22 here to oppose it today, and say you grant me

1 a week or two weeks or whatever the time frame
2 is, does that leave the window open for more
3 opposition to come into play?

4 CHAIRPERSON MILLER: It leaves the
5 record open only for parties to raise
6 opposition. Now, Ms. Gibson is not here so we
7 did not grant her party status. The ANC is
8 automatically a party so they would have an
9 opportunity respond to your revised plans.

10 I'm not -- I don't -- has the ANC
11 weighed in on this?

12 MS. HODGES: No.

13 CHAIRPERSON MILLER: Did you talk
14 to the ANC?

15 MS. HODGES: I left a couple of
16 messages and told them specifically what I'm
17 doing. I gave them the application number and
18 told them the date of the hearing, but I
19 hadn't heard back from them.

20 CHAIRPERSON MILLER: Okay. So,
21 basically what you would need to do is serve
22 them with a copy of your revised application

1 and plans.

2 We would leave the record open for
3 a submission by them if they choose to file
4 anything.

5 MS. HODGES: Okay.

6 CHAIRPERSON MILLER: Office of
7 Planning, would you like to introduce yourself
8 and do you want to comment on this at all?

9 MR. JESICK: Sure. Good
10 afternoon, Madam Chair, Members of the Board.
11 My name is Matt Jesick.

12 Let me begin by saying we're very
13 happy that Ms. Hodges brought this application
14 to us. The Office of Planning really
15 encourages in-fill housing, especially the
16 type that she's proposing. A single-family
17 dwelling, you know in a family neighborhood
18 near an elementary school.

19 From the policy side of things, we
20 love it. We just have that one sticking point
21 with what the zoning regs say about building
22 on the lot line. And that's where we're

1 getting tripped up with the three-part test
2 for the variance.

3 On the other variances for side
4 yard, lot area, lot width, we don't have any
5 issues. We just want to make sure that we can
6 find a solution that works for everyone and
7 meets the intent of the zoning regulations.

8 CHAIRPERSON MILLER: I guess I'm
9 treating this at this point as the hearing on
10 your application being revised as we're
11 discussing.

12 And so I guess Office of Planning
13 it sounds like you don't see any adverse
14 impact on the revision as we expect it. And
15 to see that it meets the three-prong test with
16 being exceptional conditions that gives rise
17 to a practical difficulty in complying with
18 the regs?

19 MR. JESICK: Yes. That's correct.
20 There is the exceptional condition of size of
21 the lot which leads to the practical
22 difficulty of what do you do with that size

1 lot. You either have an extremely narrow
2 house or you get relief. And so we would
3 certainly support relief in this case. In
4 fact, we drew our example from a case the
5 Board recently approved the exact same size
6 lot. And the applicant revised their plans
7 for a 17 foot house with two four foot side
8 yards and we found that that was an acceptable
9 solution.

10 So, I think in this case that
11 would also be one avenue to pursue and we
12 would not object to a revision of that nature.

13 CHAIRPERSON MILLER: So, we
14 anticipate that you have another hearing.

15 So, I think that the points are
16 well made in the papers, but if there is
17 anything else you want to add while you think
18 you need specific variance test, with the
19 application as revised, you're welcome to put
20 anything else on the record.

21 MS. HODGES: Just that I was a
22 little surprised to hear of the letter of

1 opposition this morning. I was hoping that
2 the neighbors would have been happy with it.

3 I think there were -- there are
4 three vacant lots at that end of the block and
5 a lot of times you go by there, you know, the
6 grass is uncut, there's a lot of debris and it
7 really would improve the esthetics of that
8 community. And to be able to buy the home,
9 you know, for a family where there's an
10 elementary school right there up the street on
11 the same block, I just hope that all those
12 things are taken into consideration.

13 CHAIRPERSON MILLER: Okay. And
14 you referring to the letter from Ms. Gibson
15 that's attached to the party status
16 application?

17 MS. HODGES: Yes.

18 CHAIRPERSON MILLER: Okay.

19 MS. HODGES: I was just made aware
20 of that this morning.

21 CHAIRPERSON MILLER: She does --
22 she does refer to it as a semi-detached house.

1 I'm not sure whether she needs to restrict her
2 objections to that. But if you were to revise
3 your application it would no longer be a semi-
4 detached. Correct?

5 MS. HODGES: Correct. It would --

6 CHAIRPERSON MILLER: It would be a
7 detached.

8 MS. HODGES: -- a detached home.

9 And basically to give you an idea
10 of what it would look like. It would have its
11 own driveway and it would be a three-story
12 home. And the driveway when you go in on the
13 ground floor it would be much like a family
14 room and then the next floor would be like
15 your main living area, your kitchen, living
16 room, things of that nature. And then the
17 upper floor would be the bedrooms.

18 Just to give you an idea of what
19 that would look like, a rough idea.

20 CHAIRPERSON MILLER: Okay.
21 Anything else you want to add?

22 MS. HODGES: No.

1 CHAIRPERSON MILLER: Does the
2 Board have any other questions?

3 VICE CHAIRMAN LOUD: No. Not for
4 the applicant but in terms of the party status
5 application. Had we decided that and I missed
6 it or --

7 CHAIRPERSON MILLER: Let you know
8 we weren't real clear on it so --

9 VICE CHAIRMAN LOUD: Because I
10 think she would need to know in terms of
11 providing or not providing them with copies of
12 the revised -- revised submissions if, in
13 fact, we rule and make her a party which I
14 don't think we decided one way or the other.

15 CHAIRPERSON MILLER: Okay.

16 Now, you know I hesitated before
17 when I started to get to a decision on party
18 status because I didn't know whether we were
19 going to be continuing the hearing or not.
20 Because sometimes if we continue a hearing we
21 allow someone who is not here at the first
22 hearing to have their party status application

1 considered at the second hearing.

2 But in this case, I don't see any
3 need for another hearing unless others do in
4 which case the record would be closed except
5 for what -- what we determine is necessary in
6 this case. So far it would just be the
7 revised application with the revised plans.

8 So, you know, also you know, we've
9 stated that sometimes people apply for party
10 status application when, in fact, all they
11 want to do is get testimony in the record.
12 And, in fact, her views are in the record and
13 will be considered as testimony.

14 So, based on, you know, what we
15 have before us and her not being here to
16 participate, I would recommend that we do deny
17 party status to Ms. Gibson and treat her party
18 status application as testimony. Okay.

19 Do we have consensus on that?
20 Okay.

21 Then let me just make sure. The
22 ANC is not here in this case. Am I correct?

1 And is there anybody here who is here to
2 testify in support or opposition to this
3 application?

4 Okay. Not seeing anyone then, I
5 think we're safe at this point then to just
6 schedule some dates, Ms. Bailey as to when the
7 application -- revised application will come
8 in and when we'll decide on it. And let me
9 turn back to Ms. Hodges before we do that.

10 Our next decision -- regular
11 decision meeting is February 5th and normally
12 I would suggest that we could just put this on
13 the agenda for February 5th if that's enough
14 time for you to submit your revised plans. If
15 it's not we will put it on for a later date.

16 This is really about, you know,
17 accommodating your schedule to a certain
18 extent. You know, we can always do decisions
19 later. Or earlier if there's a big concern.

20 MS. HODGES: Well, again, like I
21 said. My contract is based on -- is
22 contingent upon the outcome of the hearing.

1 And though we are postponing it for a later
2 date, I do need to speak with the owner of the
3 lot in all fairness. But I know he's out of
4 the country now because I tried to contact him
5 for, you know, something else. And the agent
6 told me that he will be back the beginning of
7 February. I didn't get an exact date though.

8 So, is it possible to get a date
9 right after, you know, February 5th, your next
10 hearing date?

11 CHAIRPERSON MILLER: Okay. Yes.
12 It is possible. I mean, we could put you on
13 the 12th.

14 You know, our first preference, I
15 guess would be to put you on a normal decision
16 date. But if there is some kind of, you know,
17 an urgency that it would delay construction or
18 whatever, we'll put you earlier.

19 So, is that a concern in this
20 case? The next decision date would be --
21 well, hold on a second. Sorry, let me finish
22 this sentence and then I'll discuss it. It's

1 March 4th is the next scheduled decision date.

2 MS. HODGES: Oh.

3 CHAIRPERSON MILLER: But if that--
4 no, you know, if I see by your reaction that
5 it affects, you know, the project or whatever
6 we can slip it into a non-decision date. Is
7 that what I'm hearing from you?

8 MS. HODGES: Yes. Yes.

9 CHAIRPERSON MILLER: And the date
10 that you're requesting is what?

11 MS. HODGES: Say if the -- I'm
12 been hearing you throw the 12th up. Is that
13 okay? February 12th?

14 CHAIRPERSON MILLER: Let me just
15 check with my Board members. Okay.

16 Okay. We'll schedule you for
17 February 12th.

18 MS. HODGES: February 12th.

19 CHAIRPERSON MILLER: But we also
20 then have to schedule a date before then by
21 which you would get your materials into us.

22 MS. HODGES: Okay. The -- how

1 about the Friday before? Would that be the
2 8th? Would that be February 8th? I don't
3 have a calendar in front of me.

4 CHAIRPERSON MILLER: Mr. Moy,
5 would that work with respect to getting
6 materials to the Board in time for the
7 decision?

8 MS. HODGES: Is that enough time
9 for you all to review?

10 CHAIRPERSON MILLER: It's enough
11 time for us to review but it's just a question
12 of getting the materials to the Board. Okay.

13 MR. MOY: I believe February 8th
14 is a Friday, I believe. If we could have it
15 by noon that would help us facilitate getting
16 the materials to the Board members that
17 Friday.

18 CHAIRPERSON MILLER: Yes. Yes.
19 It would the revised plans and then you would
20 just need to reflect it in writing, I think,
21 in your -- showing how you meet the variance
22 test.

1 MS. HODGES: And that's the
2 revised plans --

3 CHAIRPERSON MILLER: I'm not sure
4 how clear you are but it sounds like you are
5 with respect to the written part. The facts
6 are a little bit different and they're
7 actually in your favor as you revise it. And
8 it would actually strengthen your argument in
9 meeting the variance test somewhat similar to
10 Office of Planning's analysis.

11 So, basically it just would be a
12 different revised submission that, you know,
13 reflects that.

14 MS. HODGES: Yes. I understand.

15 CHAIRPERSON MILLER: Okay. Good.
16 Okay.

17 Do you have any other questions?

18 MS. HODGES: No. I don't believe
19 so.

20 Oh, to submit the revised plans, I
21 just bring it to the planning office? I'm
22 sorry, to zoning?

1 CHAIRPERSON MILLER: Mr. Moy,
2 could you help her out on that one?

3 MR. MOY: Normally as she did with
4 the application you filed with us in August.

5 MS. HODGES: Okay. I just wanted
6 to know exactly where --

7 MR. MOY: With 20 copies.

8 MS. HODGES: Twenty copies. Okay.
9 Okay.

10 CHAIRPERSON MILLER: Okay. Thank
11 you very much.

12 MS. HODGES: Thank you all.

13 CHAIRPERSON MILLER: All right.
14 Anything else on the agenda for this morning,
15 Ms. Bailey?

16 CHAIRPERSON MILLER:

17 MS. BAILEY: No, Madam Chair,
18 that's it.

19 CHAIRPERSON MILLER: Okay.

20 So, that completes the Board's
21 morning agenda. I would say at this point
22 it's 1:30 and that we should come back for the

1 afternoon session at 2:15.

2 This hearing is adjourned.

3 (Whereupon the hearing was
4 recessed at 1:32 p.m., to reconvene at 2:33
5 p.m., this same day.)
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A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2:33 p.m.

CHAIRPERSON MILLER: Good
afternoon, ladies and gentlemen. This hearing
will please come to order.

This is the January 22nd, 2008,
afternoon public hearing of the Board of
Zoning Adjustment.

My name is Ruthanne Miller. I am
the Chair of the BZA. To my right is Mr. Marc
Loud. He is the Vice Chair. To his right is
Mr. Anthony Hood from the Zoning Commission.
To my left is Ms. Mary Oates Walker and Mr.
Shane Dettman, also Board members on the BZA.
And to Mr. Dettman's left is Ms. Lori Monroe
from the Office of the Attorney General and
Ms. Beverly Bailey from the Office of Zoning
and Mr. Clifford Moy from the Office of Zoning
will be joining us shortly.

1 Copies of today's hearing agenda
2 are available to you and are located to my
3 left in the wall bin near the door.

4 Please be aware that this proceed
5 is being recorded by a court reporter and is
6 also webcast alive. Accordingly I must ask
7 you to refrain from any disruptive noises or
8 actions in the hearing room.

9 When presenting information to the
10 Board please turn on and speak into the
11 microphone first stating your name and home
12 address. When you're finished speaking,
13 please turn your microphone off so that your
14 microphone is no longer picking up sound or
15 background noise.

16 All persons planning to testify
17 either in support or opposition are to fill
18 out two witness cards. These cards are
19 located to my left on the table near the door
20 and on the witness table.

21 Upon coming forward to speak to
22 the Board please give both cards to the

1 reporter sitting to my right.

2 The order of procedure for special
3 exceptions and variances is as follows.

4 One, statement and witnesses of
5 the applicant.

6 Two, government reports, including
7 Office of Planning, Department of Public
8 Works, DDOT, etcetera.

9 Three, report of the Advisory
10 Neighborhood Commission.

11 Four, persons or parties in
12 support.

13 Five, persons or parties in
14 opposition.

15 Six, closing remarks by the
16 applicant.

17 Pursuant to Section 3117.4 and
18 3117.5, the following time constraints will be
19 maintained.

20 The applicant, appellant, persons
21 and parties except an ANC in support including
22 witnesses, 60 minutes.

1 Persons and parties except an ANC
2 in opposition including witnesses, 60 minutes
3 collectively.

4
5 Individuals three minutes.

6 These time restraints do not
7 include cross examination and/or questions
8 from the Board. Cross examination of
9 witnesses is permitted by the applicant or
10 parties. The ANC within which the property is
11 located is automatically a party in a special
12 exception or variance case.

13 Nothing prohibits the Board from
14 placing reasonable restrictions on cross
15 examination, including time limits and limits
16 on the scope of cross examination.

17 The record will be closed at the
18 conclusion of each case except for any
19 materials specifically requested by the Board.

20 The Board and the staff will
21 specify at the hearing exactly what is
22 expected and the date when the persons must

1 submit the evidence to the Office of Zoning.

2 After the record is closed, no
3 other information will be accepted by the
4 Board.

5 The Sunshine Act requires that the
6 public hearing on each case be held in the
7 open before the public. The Board may
8 consistent with its rules of procedure and the
9 Sunshine Act enter executive session during or
10 after the public hearing on a case for
11 purposes of reviewing the record or
12 deliberating on the case.

13 The decision of the Board in these
14 contested cases must be based exclusively on
15 the public record. To avoid any appearance to
16 the contrary, the Board requests that persons
17 present not engage the members of the Board in
18 conversation.

19 Please turn off all beepers and
20 cell phones at this time so as not to disrupt
21 the proceeding.

22 The Board will make every effect

1 to conclude the public hearing as near as
2 possible to 6:00 p.m.

3 If the afternoon cases are not
4 completed at 6:00, the Board will assess
5 whether it can complete the pending case or
6 cases remaining on the agenda.

7 At this time the Board will
8 consider any preliminary matters. Preliminary
9 matters are those that relate to whether a
10 case will or should be heard today such as
11 request for postponement, continuance or
12 withdrawal or whether proper and adequate
13 notice of the hearing has been given.

14 If you're not prepared to go
15 forward with the case today or if you believe
16 that the Board should not proceed, now is the
17 time to raise such a matter.

18 Does the staff have any
19 preliminary matters?

20 MS. BAILEY: Madam Chair, good
21 afternoon. To everyone, good afternoon as
22 well.

1 Staff does not.

2 CHAIRPERSON MILLER: In which case
3 we will proceed with the agenda.

4 Would all individuals wishing to
5 testify today please rise to take the oath.
6 And Ms. Bailey will administer it.

7 MS. BAILEY: Would you please
8 raise your right hand?

9 Do you solemnly swear or affirm
10 that the testimony that you will be giving
11 today will be the truth, the whole truth and
12 nothing but the truth?

13 CHAIRPERSON MILLER: I believe we
14 have one case on the agenda for the afternoon.
15 Is that correct, Ms. Bailey?

16 MS. BAILEY: Yes, Madam Chair, and
17 it's the Application of Sidwell Friends
18 School. Are you ready for it to be called at
19 this time?

20 CHAIRPERSON MILLER: Yes, please.

21 MS. BAILEY: Application No.
22 17703, Sidwell Friends School pursuant to 11

1 DCMR 3104.1 for a special exception to allow
2 additions to an existing private school under
3 Section 206 and a special exception to
4 establish a child development center that's
5 for 10 through 12 children and four staff
6 under Section 205.

7 The property is zoned R-1-B/C-2-A
8 and it's located at 3825 Wisconsin Avenue, NW,
9 Square 1825, Lot 816.

10 Members of the Board, there was a
11 request for party status from ANC-3F in this
12 case.

13 CHAIRPERSON MILLER: Thank you.

14 Would the parties in this case
15 please come forward including ANC-3F? And
16 would you introduce yourselves for the record
17 please?

18 MR. FEOLA: Thank you, Madam
19 Chair. For the record, Phil Feola, Pillsbury,
20 Winthrop, Shaw, Pittman on behalf of the
21 applicant.

22 MS. BANTA: Good afternoon, I'm

1 Susan Banta, ANC-3F, SND01.

2 MS. REEVES: Trudy Reeves, ANC-
3 3C06. SND06.

4 CHAIRPERSON MILLER: Okay. I
5 would like to start out with a preliminary
6 matter. And that is to disclose that I have
7 two daughters that graduated from Sidwell
8 Friends School and my husband graduated from
9 Sidwell Friends School and when the
10 application came before this Board in the
11 earlier decision, I said, well, I recused
12 myself voluntarily from participating in the
13 proceeding. And I did that because I still
14 had a daughter at the school and I found --it
15 was my view that participating in the case
16 would give rise to an appearance of the
17 conflict of interest and did not think it was
18 a personally comfortable position for me to be
19 in or put myself in. And that it would in no
20 way jeopardize consideration of the
21 application if I were to remove myself at that
22 point which I did.

1 At this particular time I do not
2 have any students at the school. I have no
3 contact with the school. I think also in that
4 case -- there's a concern when you recuse
5 yourself.

6 One reason could be that you would
7 hear things outside the four corners of the
8 walls of this proceeding that might influence
9 your decision. And I thought that was a
10 possibility in the previous case and that that
11 doesn't exist in this case. I don't have nay
12 contact with the school.

13 So, if there are any concerns that
14 anyone wants to raise, now is the time to do
15 that and the Board will entertain any concerns
16 anyone might have.

17 Do any of the parties have any
18 concerns?

19 MR. FEOLA: The applicant doesn't.

20 CHAIRPERSON MILLER: Okay. so,
21 the ANC members are shaking their heads no.

22 Any Board members have concerns?

1 Okay. So then we can proceed.

2 The next issue is a preliminary
3 issue I believe is ANC-3C has request that the
4 Board recognize -- ANC-3F, excuse me,
5 recognized it as a party entitled to great
6 weight because it is an abutting an affected
7 ANC. And I would suggest that we do so. They
8 were also a party in the previous Sidwell
9 Friends case and it's in accordance with the
10 Court of Appeals decision that they cited.

11 Is there any concern with the
12 Board granting them party status as an
13 affected ANC?

14 Okay. So, not hearing any
15 concerns, the Board recognizes AND-3F also as
16 an affected ANC with the full rights of
17 participation and entitled to the great
18 weight.

19 Okay. I think that takes care of
20 preliminary matters if I'm not mistaken.

21 Okay.

22 Then I would turn to the applicant

1 then for presentation of your case.

2 MR. FEOLA: Thank you, Madam
3 Chair. Again, for the record Phil Feola,
4 Pillsbury, Winthrop, Shaw, Pittman on behalf
5 of the applicant.

6 It might be helpful if we could
7 ask the staff to turn the lights down a little
8 bit. I have a PowerPoint.

9 Thank you, again.

10 We are here on behalf of Sidwell
11 Friends School for two special exceptions this
12 afternoon.

13 The first is for improvements to
14 an existing private school which does not
15 include -- does not include an increase in
16 number of students, does not change the
17 vehicular or parking -- vehicular access or
18 egress patterns or parking provided towards
19 the school, merely shifts some facilities that
20 have been previously approved by this Board in
21 2004.

22 And the second special exception

1 is for a day care facility for the school's
2 faculty and staff in order to accommodate
3 young parents in the workforce that they have
4 a place that they can place their children
5 while they work or teach at the school.

6 As Ms. Bailey said, the Sidwell
7 Friends campus is on Wisconsin Avenue. It's
8 approximately 15 acres. It is bounded on the
9 -- bounded on the north -- it's bounded on the
10 north by the Washington Home, an elderly
11 housing facility, and the U.S. Post Office and
12 a small office building that's owned and
13 occupied by Fannie Mae.

14 It's bounded on its western
15 boundary by the length of Wisconsin Avenue
16 across from Fannie Mae's headquarters and
17 McLean Gardens on the other side of Wisconsin
18 Avenue.

19 And on the south by Quebec Street,
20 some single family houses and a small
21 commercial building on the corner. And 37th
22 Street on the east bounded by Hearst

1 Recreation Facility which is on the southern
2 half of the block and Hearst Elementary School
3 and a single family house on the north.

4 What we'll show you here this
5 afternoon is that the improvements of the
6 school will not create an adverse impact due
7 to noise, number of students, traffic or other
8 objectional conditions. And that by virtue of
9 the last approval that this Board granted and
10 it has been constructed, we will have -- we
11 have ample parking on the facility.

12 And with regard to the child
13 development center, we will show that the
14 school is capable of meeting all codes that it
15 -- that the small number won't create an
16 objectional traffic condition or add to the
17 off street parking problems that may exist in
18 the neighborhood. And that there is adequate
19 play space for these kids.

20 I'm happy to say that the project
21 has received the History Preservation Review
22 Board approval, conceptual approval because of

1 the location o the site of the Zartman House
2 which is a national historic landmark and has
3 received letters of support from it's two
4 institutional neighbors the Washington Home on
5 the north and Phoebe Hearst Elementary School
6 on the east, as well as the Department of
7 Human Services for the child development
8 center.

9 We have three witnesses this
10 afternoon. We have kind of moved through the
11 presentation fairly quickly given that you've
12 spent a long time here already today. I think
13 we can kind of cover the matter fairly
14 expeditiously.

15 Our first witness is Mr. Michael
16 Saxenian who is Assistant Head of School at
17 Sidwell.

18 MR. SAXENIAN: My name is Mike
19 Saxenian. I'm Assistant Head of School and
20 Chief Financial Officer for Sidwell Friends
21 School.

22 Before I begin I'd like to

1 recognize two of our trustees who are here
2 today. Hurley Doddy and Tom Corl sitting in
3 the audience.

4 We last came through for a zoning
5 order is 2004. That order granted the school
6 the right to a master plan in two phases.

7 The first phase which we have
8 already implemented involved a parking
9 structure with a drop off facility and playing
10 field and some other school facilities in it
11 in the front of the campus along Wisconsin
12 Avenue and an addition to and renovation of
13 our middle school building.

14 The second phrase which was
15 approved but has not yet been implemented is
16 the subject now of our new application
17 includes a Quaker Meeting House adjacent to
18 Zartman House, the national historical
19 landmark. A new gymnasium and a renovation of
20 existing buildings for art spaces.

21 The parking structure provides 307
22 spaces allowing us to bring parking for

1 facility, students and visitors onto campus.
2 It's about 50 percent more than is required by
3 code and we added that we went from a one-
4 level to a two-level parking structure in
5 response to the wishes of our neighbors to
6 fully accommodate our parking on campus.

7 In the back of the parking
8 structure underneath the playing field is a
9 drop off file which accommodates our -- aisle,
10 which accommodates our drop off and pick up
11 traffic from Wisconsin Avenue. We've seen a
12 significant reduction in congestion on
13 Wisconsin Avenue and a shift in drop off and
14 pick up traffic from 37th Street to Wisconsin
15 Avenue.

16 The landscaping plan in keeping
17 with the overall environmental focus of our
18 renovations features native species that don't
19 require watering and are mutually symbiotic
20 with the other elements of the ecosystem
21 surrounding the school.

22 Finally, the transportation realm

1 as you'll hear more about later, we enacted a
2 series of policies designed to reduce
3 automobile use and encourage carpools,
4 transit, bicycles and walking.

5 The middle school building which
6 we also completed during this first phase of
7 construction is a global model. It's the
8 first K-12 building -- school building in the
9 world to earn the highest rating from the U.S.
10 Green Building council, lead platinum rating.
11 We've had, I think, about 3,00 visitors
12 through the school. Other school officials,
13 design professional, government leaders and
14 the building features, about 60 percent less
15 energy use, 93 percent less municipal water,
16 very advanced stormwater management. The same
17 kind of landscaping with native species that
18 we saw in front of the parking structure.

19 The second phase of the plan as I
20 mentioned before features a meeting house
21 adjacent to Zartman House and a new gymnasium
22 as well as some internal renovations.

1 In 2004 there were concerns
2 expressed by Historic Preservation Review
3 Board about the location of the meeting house.
4 The Review Board, HPRB asked us to continue to
5 look for locations for the meeting house in
6 order to get it farther away from the national
7 landmark building, Zartman House.

8 Some of the neighbors and ANC
9 Commissioners also expressed concerns about
10 this and in addition, some neighbors and the
11 Washington Home and some ANC commissioners
12 expressed concerns about the location of the
13 new athletics building adjacent to the
14 Washington Home on the north edge of our
15 campus.

16 So, the school took a look at how
17 we might revise our building plans and the
18 result if the program that we're now proposing
19 in this application.

20 We were able to resolve the
21 conflicts identified by HPRB and our neighbors
22 by moving the meeting house -- well, by moving

1 the athletics facility that had been slated
2 for the north edge of the campus to a new
3 location along 37th Street underneath the
4 football field. In doing so we were able to
5 take off line Kenworthy Gym which we had been
6 retaining for middle school use in the past
7 because we could build a gym a little bit
8 larger down here. That creates space for the
9 Quaker Meeting House moving it from its
10 previous location by Zartman House.

11 The rest of the Kenworthy Gym and
12 Kogod Art Center would be renovated as before
13 for art spaces.

14 So, we think this solution rather
15 eloquently meets the needs of these schools
16 and at the same time as addressing the
17 concerns from our neighbors from ANC
18 Commissioners and from the History
19 Preservation Review Board.

20 Finally, we're proposing to add a
21 child development center to the campus. We've
22 been piloting this approach in our lower

1 school in Bethesda and found that it's very
2 popular with our faculty there.

3 In our initial application we
4 asked for 10 to 12 children, but in the
5 intervening months as we've surveyed our
6 faculty we believe demand would be a little
7 bit higher than that and would like to have
8 approval for up to 16 children and a maximum
9 of six staff members. Ages of the children
10 would be eight weeks to four years and we
11 would locate the facility in the existing
12 Sensner Building with a small play area
13 outside.

14 And, of course, in addition to
15 sort of our own internal needs to service our
16 faculty, CDCs have been identified as a
17 priority in the Comprehensive Plan.

18 As with our 2004 process we had an
19 extensive series of interactions with our
20 neighbors, with the adjacent ANC-3C which we
21 are a part of and ANC-3F which is contiguous
22 to the school as well as with our neighboring

1 institutions were supporting our application,
2 Phoebe Hearst Elementary School and Washington
3 Home.

4 And we have made quite a few
5 adjustments to our plans in response to our --
6 the desires of our neighbors.

7 I'd like to turn the presentation
8 over to our architect or one of our
9 architects, Jamie Unkefer from Kieran
10 Timberlake Associates. And maybe I can just
11 mention that Kieran Timberlake Associates
12 recently earned the Firm of the Year Award --
13 National Firm of the Year Award from the AIA.
14 It's the highest award that any firm can earn.
15 And I think it is probably not in small part
16 because of the work they did on our middle
17 school building.

18 MR. UNKEFER: Thank you.

19 As Mike said, my name is Jamie
20 Unkefer with Kieran Timberlake Associates and
21 we are architects in Philadelphia. And I will
22 present to you the initiatives that Mike

1 described and I will move quickly with respect
2 to the committee's time but please obviously
3 feel free to stop if you have questions.

4 The initiatives basically can be
5 categorized into three groups. They range
6 from campus perimeter improvements,
7 landscaping site work, renovation and new
8 construction.

9 And I'll start with the perimeter
10 improvements. At Wisconsin Avenue there are
11 essentially three -- three projects proposed,
12 the first being at the southern end of the
13 campus construction of a new light screen and
14 additional plantings to help shield light from
15 the parking garage at night until the
16 landscape that is proposed fully matures. And
17 it's a rather small initiative, but is
18 something that the school has agreed to do as
19 part of this submission.

20 CHAIRPERSON MILLER: Is that --
21 excuse me. Sorry.

22 Is that in our record, your plan

1 for preliminary improvement?

2 MR. UNKEFER: Phil? I believe
3 they are.

4 MR. FEOLA: Yes. They were in the
5 prehearing submission.

6 CHAIRPERSON MILLER: Thank you.

7 MR. UNKEFER: And it's probably
8 worth noting that the photograph that's
9 attached in the lower right corner is about a
10 year -- maybe slightly over a year old and we
11 do think that the landscape is maturing and is
12 significantly different than it was at that
13 point.

14 CHAIRPERSON MILLER: let me just
15 ask you about that though.

16 The landscaping that's there now
17 that you're referring to, is that going to be
18 improved?

19 MR. UNKEFER: Yes. The part of
20 this greater -- we're proposing to plant more
21 evergreens in response to some concerns.

22 Moving down Wisconsin Avenue

1 towards Quebec Street, the school is proposing
2 to construct a new sign to replace the
3 existing sign here in front of Zartman House.
4 It's a plywood sign that's stood out there for
5 many, many years. And what's being proposed
6 is a masonry sign along the southern edge of
7 the horseshoe drive at Zartman House. So,
8 these views show existing view to the north
9 and a proposed view with the new sign and an
10 existing view looking east towards Zartman
11 house and a proposed view.

12 Next two images are just
13 enlargements of the same view showing existing
14 signs and the proposed sign.

15 Continuing along Wisconsin Avenue
16 to the south we are proposing to replace two
17 existing chain link fence. One a three-foot
18 fence at the edge of the sidewalk along
19 Wisconsin Avenue and one approximate 10 foot
20 chain link fence at the edge of the tennis
21 courts. And we are proposing, as I'll show
22 you in the enlarged -- proposing. This is the

1 existing with the smaller chain link fence and
2 the larger chain link fence beyond. And we're
3 proposing to replace the fences with is a new
4 site wall -- masonry site wall with black
5 fencing similar to the fence at the parking
6 garage structure. And the hope there is that
7 we'll bring a little greater uniformity to the
8 entire Wisconsin Avenue frontage.

9 Moving around to Quebec Street
10 here we're proposing to restore the existing
11 site wall and replace the existing chain link
12 fence with new fencing similar to the fencing
13 on Wisconsin Avenue as well as new plantings
14 along the wall and fence.

15 And finally at 37th Street you're
16 looking at an existing view north up the
17 street. You see the chain link fence at the
18 existing field level, a concrete retaining
19 wall and a rather steep embankment down to
20 another chain link fence and a concrete
21 retaining wall.

22 And looking south at the same

1 street, 37th Street looking south, you see the
2 field level existing fence retaining wall.

3 And at the northeast -- excuse me.
4 Southeast corner of the school the recently
5 renovated middle school.

6 And here we're proposing the new
7 facade. This is actually designed by Cannon
8 Design in Washington. But what's being
9 proposed is the new facade of the new athletic
10 facility which is below the existing field
11 level but would have a facade along 37th
12 Street. And the design uses brick walls to
13 pick up the material language of the middle
14 school as well as glazed curtain walls to
15 allow natural light into the new facility.

16 And here is an aerial view looking
17 to the southwest showing the field at
18 approximately the same level as the existing
19 field and new facade along 37th Street and the
20 new middle school.

21 Moving to the campus interior,
22 what's being proposed as part of this

1 application are several landscaping
2 improvements and site improvement, both to
3 sort of enhance the overall appearance and
4 uniformity of the campus and also enhance and
5 enable accessibility through the site which is
6 challenging because of what's approximately a
7 40-foot drop off on 37th Street -- from
8 Wisconsin Avenue to 37th Street.

9 And looking in greater detail at
10 that, that is what is called the Lubar Court,
11 sort of the main court. We're proposing to
12 raise the grade to enable accessibility to the
13 surrounding buildings, replace the paving,
14 construct a new rain garden to capture
15 stormwater and retain storm waters, part of
16 the school's ecological commitment. And
17 develop a series of garden at the perimeter of
18 the Kenworthy building which as part of this
19 would be renovated from its existing use as
20 the gym into the new Quaker Meeting House for
21 the school as well as arts and music
22 classrooms.

1 And quickly the renovations that
2 are proposed show the existing gym location
3 and what's currently used as a density
4 location, the new Quaker Meeting space and new
5 music classrooms as well as a relatively small
6 addition for circulation through the building
7 and down to the middle school and field level.

8 On the lower level, we're
9 proposing in the location of existing locker
10 rooms and training rooms to expand the arts
11 classroom program.

12 And these are elevation views
13 looking westward at the existing Kenworthy
14 building and proposed Kenworthy building and
15 looking east at the existing Kenworthy
16 building and the proposed renovation.

17 Now, this is from the middle
18 school on the -- on the east side of the
19 Kenworthy building looking west at the new
20 Head House entry to the athletic facility.
21 And what you're seeing is in the location of
22 the existing hillside would be construction of

1 a new above-grade entry lobby with a green
2 terrace level at the lower level of the
3 Kenworthy building and new glazed wall and
4 doors at approximately the field level.

5
6 Show you the plan for that.

7 Here is an image of the -- of the
8 plan of the Head House and the Head House
9 being the part that's above grade at the field
10 level. It's limited to new entry vestibule,
11 lobby -- -small lobby, elevator and stair
12 that takes you down to the first level
13 underground.

14 This is the plan of that level
15 which includes an elevated track, wrestling
16 room, dance studio and fitness area, as well
17 as offices and a small meeting room.

18 And then continuing down to the
19 lower level which is now two levels below
20 grade, we are proposing locker rooms and
21 training rooms as well as four practice courts
22 or two competition courts.

1 And here is an image of the Head
2 House lobby looking southward at elevator
3 stair and just beyond at the playing field.
4 And then finally looking northward from the
5 first level underground at the proposed gym.

6 I think that takes us to the next
7 part of our presentation which I think is --

8 MR. FEOLA: The next witness is
9 Jamie Milanovich of Wells and Associates to
10 talk a little bit about the traffic issues.
11 Do you think we should hear all those issues
12 before we have questions? Traffic seems like
13 a new area.

14 CHAIRPERSON MILLER: Maybe we
15 should pause here. Would that be acceptable?

16 MR. FEOLA: Absolutely.

17 CHAIRPERSON MILLER:

18 Okay.

19 Not that I want to, you know,
20 break up your train of presentation.

21 I guess I have a few questions to
22 start if my other Board members -- just on

1 what we've heard so far.

2 With respect to the new gym, a new
3 gym was approved in the previous order from
4 what I understand.

5 Is there anything different about
6 the gym that affects this proceeding other
7 than a change in location? Anything different
8 about the use of the gym that wasn't before
9 the Board in that case?

10 MR. SAXENIAN: We aren't
11 anticipating any changed uses. It's really
12 designed to accommodate the same program.

13 The new gym is designed for the
14 same program. Clearly, it's a different
15 configuration so it's different in that
16 respect. But in terms of our plans for
17 programs, it's exactly the same.

18 CHAIRPERSON MILLER: Okay. With
19 respect to the screening in front of the
20 parking garage, you know, I think that we're
21 trying to, you know, be careful to separate
22 this case from the previous case. We're not

1 relitigating the parking garage, for instance,
2 again.

3 But then I heard you say that your
4 plan for screening are in our record. And,
5 therefore, they are before us if I understand
6 correctly. Okay.

7 I just want to make sure that I
8 know where they are in the record. I -- I
9 looked for it briefly. But I don't know how
10 specific they are.

11 Can you, you know, lead us to
12 that?

13 MR. FEOLA: Certainly. In our
14 pre-hearing submission dated December 14th,
15 the booklet.

16 CHAIRPERSON MILLER: Where? I
17 mean, is there a landscaping plan that
18 identified?

19 MR. FEOLA: Yes.

20 CHAIRPERSON MILLER: Okay. Good.

21 MR. FEOLA: I'll get you that.

22 CHAIRPERSON MILLER: Okay.

1 MR. FEOLA: Drawing CE, Charlie,
2 Echo-A1.0. 1.0.

3 CHAIRPERSON MILLER: Can you
4 explain since it is before us what's different
5 than in this plan than what was before the
6 Board in the last plan and what was
7 implemented?

8 MR. FEOLA: Yes. The only
9 difference is neither the school nor the
10 community was comfortable with how light
11 emanated out of the parking garage onto
12 Wisconsin Avenue.

13 The school initially thought that
14 the screening would be able -- to be taken --
15 be done by the plantings. And so as part of
16 the give and take, the school came up with a
17 permanent way to screen off that light and
18 that's what this cement -- fiber cement board
19 that is hung from the ceiling of the garage is
20 intended to do.

21 So, it's a black screen, if you
22 will, that just keeps light out. There's

1 really no change in the parking garage except
2 there's a new screen there.

3 CHAIRPERSON MILLER: Okay.
4 There's a new screen but is there a change in
5 the landscaping in front of the screen?

6 MR. SAXENIAN: In the -- in our
7 discussions with ANC-3C and subsequently with
8 ANC-3F, I think, we agreed that we would
9 increase the number of evergreen plantings in
10 front of the parking structure. I don't know
11 whether those are -- whether that's in the
12 submission or - -

13 MR. FEOLA: It is not in the
14 submission but they're in public space. The
15 plantings are in public space, not on private
16 property as opposed to the screen which is on
17 private property.

18 CHAIRPERSON MILLER: How about
19 what's before HPRB because I think that the
20 Office of Planning mentioned the same issue if
21 I can find it saying that it was before HPRB.

22 The HPRB -- well, I'm sorry. Let

1 me be more clear.

2 The HPRB staff supporting
3 recommendation is attached to the Office of
4 Planning report. Exhibit 34 and in it it says
5 that in discussions with the ANC and HPRB the
6 school has agreed that the deciduous planting
7 in front of the new garage has not been
8 successful in mitigating the views into the
9 structure.

10 The school has agreed to enhance
11 the plantings with more off season evergreens
12 and is working on a screening system inside
13 the garage to shield views and soften the
14 glare of car headlights from being seen from
15 Wisconsin Avenue.

16 Okay. That represents now that I
17 read it out loud, discussions that you're
18 having and agreements you've made. But is
19 there going to be a landscaping plan that is
20 presented to HPRB that reflects it or no?

21 MR. FEOLA: Yes.

22 CHAIRPERSON MILLER: Is that -- is

1 that already --

2 MR. FEOLA: It is not in the BZA
3 package.

4 CHAIRPERSON MILLER: Does it
5 exist?

6 MR. FEOLA: No.

7 CHAIRPERSON MILLER: Okay. When
8 is that going to happen, do you know?

9 MR. FEOLA: Assuming that the
10 Board moves this to a positive resolution, the
11 idea was to take the concept approval, address
12 the comments from HPRB and bring back to HPRB
13 the specifics, the types of plants and
14 location.

15 Again, the plants are in public
16 space so technically the Board -- this Board
17 doesn't have jurisdiction over it. HPRB does
18 because they review public space permits as
19 well as private property permits.

20 If you're asking for a plan for
21 the BZA, we can certainly do one and submit
22 it. It has not been done to date though.

1 MR. SAXENIAN: It might be helpful
2 if I just clarify there.

3 I think there are three elements
4 that were a concern with respect to the
5 presentation of parking structure. One was
6 that it was possible to see from Wisconsin
7 Avenue into the parking structure to see the
8 lights inside and to see cars inside. And
9 that was not felt to be appropriate.

10 The second was that -- well, okay.

11 CHAIRPERSON MILLER: What did you
12 say again? What wasn't appropriate? Would
13 you say that again?

14 MR. SAXENIAN: To be able to see
15 cars parked inside. The second was the light
16 was coming out and the third was a sense that
17 it would be nice to have more softening from
18 landscape from plantings in front.

19 The screening structure that we're
20 proposing which is actually inside the parking
21 structure will totally eliminate all views
22 into and out of the parking structure. It

1 takes care of the first two points.

2 And then I think the additional
3 evergreens which we've agreed to plant and
4 would like to plant will take care of the
5 softening and we'd be happy to provide it, you
6 know, a plan in whatever format is
7 appropriate.

8 CHAIRPERSON MILLER: Okay. You
9 know, I hear what you're saying about, you
10 know, we don't have jurisdiction over public
11 space. And I also just wanted to know, you
12 know, if there is some way that the community
13 has, you know, assurance in one of these
14 proceedings that that's actually what's being
15 done.

16 And so sometimes -- I don't know
17 how HPRB operates whether or not the final
18 HPRB order would reflect this landscaping or
19 not.

20 So, I would just say that you
21 wouldn't be required to do it for us in my
22 opinion, but it would be beneficial, you know,

1 to have that in the record for all concerned.
2 If that's actually what you're going to be
3 doing then when people check the BZA record to
4 see, you know, what you're represented that
5 you're doing it's there. It's a comfort level
6 for the public.

7 MR. FEOLA: Not a problem.

8 CHAIRPERSON MILLER: Not something
9 that we're ordering you to do.

10 MR. FEOLA: Not a problem.

11 CHAIRPERSON MILLER: Okay.

12 MR. SAXENIAN: And we've made that
13 commitment to the ANC as well so we're
14 comfortable with that being in the record here
15 as well.

16 CHAIRPERSON MILLER: Okay. I
17 think I heard you say that there has been a
18 reduction in -- never mind. We'll get to
19 traffic later. Okay. That's a traffic issue.
20 I guess Mr. Wells is going to say more about
21 traffic. Is that right?

22 MR. FEOLA: Ms. Milanovich.

1 CHAIRPERSON MILLER: Okay. Okay.
2 I'll hold my traffic question.

3 Oh, the child development center.
4 You talked about number of 16 children and 6
5 faculty. Is that a number that you're
6 confident and won't grow or how do you -- what
7 does that number really represent?

8 MR. SAXENIAN: It's a number that
9 we feel meets our current and anticipated
10 needs. We recognize that if we were to need
11 to add more, we'd have to come back for
12 additional review.

13 CHAIRPERSON MILLER: But you would
14 have to come back for additional review if we
15 limited it to 15. So, I mean, that's why I
16 think, you know, we always throw out this
17 question to schools and community centers that
18 are putting forth numbers.

19 If they anticipate a larger number
20 then, there is no reason that the Board can't
21 consider it in the current hearing. And I
22 don't think schools should to keep running

1 back to the Board for additional relief.

2 So, if there were a bigger number
3 we would consider the ramifications of a
4 bigger number.

5 MR. SAXENIAN: Sure.

6 CHAIRPERSON MILLER: So --

7 MR. SAXENIAN: Well, I mean we'd
8 be comfortable with a larger number for sure.
9 I mean, the -- the -- I mean, I understand the
10 point you're making and perhaps it's prudent
11 to -- for us to increase our request now so
12 that we can avoid having to come back later.
13 I think that's probably right.

14 CHAIRPERSON MILLER: I don't want
15 to be interpreted as encouraging you to do
16 that necessarily but I just think that if
17 that's a possibility, all the affected parties
18 are here in this case to address it. And the
19 ramifications might not be any different from
20 16 to 20 and it might give you flexibility.

21 MR. SAXENIAN: Right.

22 MR. FEOLA: I think, Madam Chair,

1 what the school is a little concerned is -- is
2 this child development center was intended for
3 faculty and staff and if there are spaces
4 available, maybe somebody from Hearst could
5 use it. But we didn't want it to -- neither
6 does the community, I believe want it to be
7 the driving force in becoming called a
8 commercial child development center. So,
9 we're trying to balance between what's
10 reasonable, what the school can accommodate
11 and at the same time recognizing that's it's
12 an adjunct what the school does for a living
13 which is to teach kids, you know, grades six
14 and up.

15 CHAIRPERSON MILLER: Well, I mean
16 you raised an important issue because that
17 would be like one questions if it's just for
18 the Sidwell community or is it for others.
19 Because if -- if the number were increased but
20 it was only for Sidwell, then you wouldn't
21 reach that commercial question or other
22 traffic coming in.

1 But I think that and even
2 considering the 16 number, the Board should
3 know whether -- and the community whether it's
4 just for Sidwell or whether it's open just to
5 assess, evaluate traffic impacts or whatever.

6 MR. SAXENIAN: First of all, I
7 mean I think it would be useful to have a
8 higher number. And I think the standard that
9 we'd like to have applied to who can use it is
10 that the users should be parents who -- who
11 are already coming to campus so -- or would be
12 walking kids. In other words, no net increase
13 in car traffic as a result of the center.

14 So, as -- as Phil just said, if we
15 could accept parents from Hearst School across
16 the street, that would be great or potentially
17 even students/children from employees of the
18 Washington Home. They can walk them over
19 after they park.

20 We thing those sorts of uses would
21 be consistent and might allow the center to
22 operate at a more -- more efficiently by

1 having more continuous levels of enrollment.

2 What we would not anticipate doing
3 or ask for approval is to be bringing people
4 from outside of the immediate neighborhood
5 into the child development center.

6 And for that matter, I mean,
7 residential neighbors who are close in might
8 want to walk their children over.

9 CHAIRPERSON MILLER: I mean, it
10 sounds like getting to be a bigger thing than
11 those in the application. I mean, it's your
12 application. I mean, it sounded like at first
13 it was just like faculty students. You know,
14 they're there all day. They want their little
15 kids to be there, you know. That's one thing.

16 The next thing you're saying is,
17 you know, and I didn't know whether, you know,
18 more faculty might have a need for that and as
19 the number might grow from 16 to 18 or
20 something. But what I seem to hear you saying
21 is, well, as long as there's no increase in
22 traffic, you know, if they're within walking

1 distance, or abutting, then -- or even parents
2 who drop their kids off, their kids would go
3 to the child development center. Then it's
4 like, well. How big is this child development
5 center going to be?

6 So, we just have to know what
7 we're evaluating and I didn't mean to --

8 MR. SAXENIAN: Well, we would
9 rather have a child development center of 16
10 children and six staff than no child
11 development center.

12 If the Board feels it's
13 appropriate to allow us to go to 20 or 24
14 children with the restriction being no new
15 drivers, that would be -- that would be better
16 from our point of view.

17 I think that in limiting our
18 application the way we did, we were, you know,
19 making a judgment about what we thought we
20 would get east approval.

21 CHAIRPERSON MILLER: Let me just
22 say this then.

1 First of all, I understand that
2 the ANCs or whatever probably been put on
3 notice that you were talking about 16. So,
4 you know, I understand about not deviating too
5 far.

6 But that doesn't mean that the
7 Board thinks that 16 is the number we have to
8 limit you to.

9 But all I can say to you, think
10 about this as the proceeding goes forward.

11 Whatever it is, you need to make
12 the case that 18 will have, for instance. If
13 you're going to change your number from 16 to
14 18 in this proceeding, that 18 will have no
15 more adverse impact than the 16, the minimum
16 or whatever.

17 Do you know what I'm saying?
18 Because I didn't want to open the door to your
19 like changing your whole application for the
20 child development center. Just asking about,
21 you know, is this -- what is this number?

22 MR. SAXENIAN: I think in the

1 interest of keeping the process streamlined,
2 we're happy to keep our application as it is
3 and also in the interest of, you know,
4 respecting our process with the ANCs

5 CHAIRPERSON MILLER: Okay.

6 MR. SAXENIAN: Thank yo for the
7 suggestion though.

8 CHAIRPERSON MILLER: Are there
9 other Board questions at this point?

10 MR. HOOD: Madam Chair, I'm glad
11 to hear you say you're going to keep that
12 process the way it was. While I understand
13 what the Chairperson was saying, but I know
14 that through these efforts there are lot of
15 negotiations that take place and there are a
16 lot of people who are involved in those
17 negotiations. So, I'm glad to see that we
18 don't have to deal with that.

19 And the only reason -- this is
20 actually a traffic question but I think either
21 Mr. Saxenian --

22 MR. SAXENIAN: Yes.

1 MR. HOOD: -- or Mr. Unkefer,
2 okay. One of you testified to it and you said
3 because of the relocation there were a few
4 things you had to relocate in general or
5 whatever. You mentioned that the circulation
6 pattern had changed or your circulation
7 pattern would change. Am I correct? One of
8 you testified to that but I forgot which one.

9 MR. SAXENIAN: I don't think that
10 we testified that our -- I think we testified
11 that the traffic simulation pattern would not
12 change.

13 MR. HOOD: Oh, you're saying it
14 will not change.

15 MR. SAXENIAN: I think Mr. Feola
16 may have testified to that. That's right. We
17 do have a traffic presentation coming up
18 sometime soon.

19 MR. HOOD: Right. Right.

20 But the only reason I asked that
21 question. I know Ms. Milanovich is coming up.
22 But you testified -- one of you. Mr. Feola,

1 you mentioned it. Okay. Okay. Well, I'll
2 wait for Ms. Milanovich.

3 Thank you.

4 CHAIRPERSON MILLER: Others?
5 Okay. Then why don't we hear from your
6 traffic expert.

7 MS. MILANOVICH: Good afternoon.
8 My name is Jamie Milanovich. I'm with Wells
9 and Associates. We are the traffic consultant
10 for Sidwell Friends School.

11 For this case we have the unique
12 opportunity to test what was previously
13 approved by the Board back in 2004. In order
14 to do that we evaluated existing conditions at
15 the school and the effectiveness of
16 improvements that have been implemented since
17 2004.

18 As you will see in the following
19 slides, the traffic and parking operations at
20 the school have improved as a result of these
21 improvements.

22 The current application will not

1 affect the current traffic and parking
2 operations and is not anticipated to have an
3 impact on those operations.

4 Next slide.

5 Today access to the new garage is
6 provided via signalized intersection -- a
7 signalized driveway opposite Rodman Street.
8 Egress from the site is provided at that same
9 driveway and also at a signalized intersection
10 to the north. That driveway is shared between
11 Sidwell, the post office and the Johnson
12 Building is owned by Fanny Mae.

13 The Zartman Circle continues to
14 operate as a one-way loop. Traffic -- student
15 drop off and pick up is occurring in the
16 garage in front of the upper school, in
17 Zartman Circle and also on 37th Street.

18 The drop off, pick up operation,
19 the queuing capacity on campus has actually
20 increased from what was there previously and
21 as well there are now restrictions to the drop
22 off, pickup operation on 37th Street, thus

1 restricted to vehicles dropping off or picking
2 up a student in the middle school.

3 The new garage provides 307
4 parking spaces. Zartman Circle provided 16
5 parking spaces and there are an additional six
6 surface spaces on the northern end of the
7 campus adjacent to the Johnson Building for a
8 total of 329 parking spaces.

9 In January of 2007, we did parking
10 lot occupancy counts on campus and determined
11 that the peak demand for those parking spaces
12 occurs at 2:30 in the afternoon and then the
13 peak demand is 81 percent. So, there is
14 excess capacity in the parking garage
15 currently.

16 As I mentioned previously, the
17 garage allows for an increased queuing
18 capacity over what was there previously. An
19 increase from 17 vehicles to 21 vehicles.

20 A maximum demand of 16 vehicles
21 was observed in the Sidwell garage during the
22 P.M. peak hour.

1 Zartman Circle has the capacity to
2 accommodate 17 vehicles picking up or dropping
3 off students. The maximum demand observed
4 there was 17 vehicles.

5 And on 37th Street the maximum
6 demand dropping off in front of the middle
7 school was observed to be 12 vehicles in the
8 afternoon peak hour.

9 The number of transportation
10 policies currently are in place to facilitate
11 the operations in and around the Sidwell
12 campus.

13 Currently, the school provides
14 subsidies for employees and students who use
15 Metro. There is a location sorted address
16 list to help facilitate carpooling. The drop
17 off and pick up operations are closely
18 monitored, particularly on 37th Street where
19 the restrictions are in place.

20 There is a shuttle bus between the
21 campuses that does stop at Metro. And there
22 are fees for student drivers as a disincentive

1 to driving.

2 In order to evaluate the
3 effectiveness of the improvements, the results
4 from a transportation survey conducted in
5 April of 2003 were compared to results of a
6 transportation survey conducted in January of
7 2007.

8 The percentage of students
9 arriving by auto remain consistent at 89
10 percent.

11 There was an increase in the
12 percentage of students using public
13 transportation from 4.8 percent to 7.3 percent
14 which in part may be attributed to the
15 incentives offered by the school.

16 The walking percentage did
17 slightly decrease from 3.8 to 1.4 percent --
18 I'm sorry, 1.8 percent. This probably is
19 attributable to the fact that the surveys were
20 conducted during different seasons, that the
21 2003 survey was conducted in April when the
22 weather was much warmer than in January.

1 Carpooling remains a significant
2 component of the transportation plan. The
3 average number of students per vehicle is
4 approximately 1.7 students per vehicle.

5 CHAIRPERSON MILLER: Can I talk to
6 you for a second? I may have missed what you
7 said.

8 But with respect to that chart,
9 for instance, the 89 percent, what is it a
10 percent of? Percent of all drivers to
11 Sidwell, percent of all --

12 CHAIRPERSON MILLER: That's the
13 percent of all upper school students.

14 CHAIRPERSON MILLER: Upper school
15 students driving. Okay.

16 MS. MILANOVICH: Well, it's
17 arriving by car whether they drive or they are
18 driven or they're part of a carpool.

19 CHAIRPERSON MILLER: Okay. Thank
20 you.

21 MS. MILANOVICH: The most
22 significant improvement to traffic operations

1 on and around the Sidwell campus has been the
2 parking impact on surrounding communities.

3 Before the garage was constructed,
4 no students parked on campus. Fifty-two
5 percent of the students parked on 37th Street
6 and 48 percent parked on other area streets.

7 Since the construction of the
8 garage, 98 percent of the students today park
9 on campus in the garage. Just two percent
10 park on 37th Street. And none park on other
11 area roadways.

12 In summary, the new parking garage
13 functions well with excess capacity during the
14 day. Ninety-eight percent of the students
15 park on campus, 96 percent of the students who
16 are dropped off are dropped off in a
17 designated area and 100 percent of the
18 students that are picked up from school are
19 picked up in the designated areas.

20 The percentage of students
21 arriving by Metro Rail and Metro Bus increased
22 from 4.8 percent in 2003 to 7.3 percent in

1 2007.

2 And there was a recommendation
3 made to offer the signal timings at the new
4 signal that provides access to the garage at
5 Wisconsin Avenue and Rodman Street. These
6 improvements basically gave the southbound
7 left turn arrow into the school a few more
8 seconds of green time. They were approved by
9 DDOT and actually implemented in November of
10 2007.

11 MR. FEOLA: Thank you, Madam
12 Chair. That concludes are direct
13 presentation.

14 CHAIRPERSON MILLER: Thank you.
15 Okay. Now, I think we may have a few
16 questions on the traffic.

17 Can you explain that two percent
18 that park on 37th Street, if I understood you
19 correctly?

20 MS. MILANOVICH: That was taken
21 from the transportation survey that was
22 conducted at the upper school in January 2007.

1 Ninety-eight percent of the students reported
2 parking in the garage. There were two percent
3 -- actually slightly less than two percent.
4 I think it was about 1.8 percent reported
5 parking on 37th Street.

6 CHAIRPERSON MILLER: Are they
7 allowed to?

8 MS. MILANOVICH: No.

9 CHAIRPERSON MILLER: No. Okay.
10 So, they were parking contrary to school
11 policy?

12 MS. MILANOVICH: That's correct.

13 CHAIRPERSON MILLER: But am I
14 correct in that they probably had Ward 3
15 stickers or something and therefore blended in
16 on that street or what?

17 MS. MILANOVICH: Probably that
18 could be assumed. There is a policy that even
19 if you have a Zone 3 sticker you're not
20 permitted to park there and the school does
21 monitor what are obviously a couple of cases
22 of students that do.

1 I'm sorry, 37th Street is
2 unrestricted parking. It's not restricted to
3 Zone 3. So, they may not have a zone sticker.

4 CHAIRPERSON MILLER: Okay. And I
5 guess I have a question about lights and
6 signalized timing. And I have confess this is
7 bringing information outside the record that
8 is not necessarily relevant. But I just kind
9 of curious about it.

10 There's a light, I believe, next
11 to where there's an exist from Sidwell next to
12 the post office. There's a light across the
13 street, I think in front of Fannie Mae and
14 then I thought that there was another light on
15 the Sidwell side and I'm wondering if that's
16 something you're aware of that's synchronized
17 or anything?

18 MS. MILANOVICH: You're talking
19 about the traffic signals at the intersection
20 where the post office and Sidwell come out and
21 then on the other side Fannie Mae?

22 CHAIRPERSON MILLER: Exactly.

1 MS. MILANOVICH: Yes. Those are
2 coordinated with the signal to the south at
3 the new garage entrance at Rodman Street.

4 CHAIRPERSON MILLER: I was just
5 wondering if they were coordinated together
6 because I just recall some years ago and
7 that's why it's not, you know, a fact that
8 we're considering in this record per se. But
9 if you've heard any complaints that there were
10 times that it seems like one light was red and
11 one light was green at the same time or
12 something. And I just wondered if that is an
13 issue now?

14 MS. MILANOVICH: As I recall,
15 there were some changes made back in 2004 or
16 so to the operation of that traffic signal.
17 And to my knowledge, there's not been
18 complaints since then. DDOT may be able to
19 respond better than I.

20 CHAIRPERSON MILLER: Thank you.
21 Thank you.

22 Okay. Others?

1 MR. HOOD: Ms. Milanovich, have
2 you seen the DDOT letter which came in?

3 MS. MILANOVICH: I actually just
4 saw it just before the hearing started.

5 MR. HOOD: Okay. Well, let me ask
6 you this.

7 Has there ever been a problem to
8 your knowledge since you're studying the site
9 internally of access for emergency vehicles?

10 MS. MILANOVICH: Not that I'm
11 aware of.

12 MR. HOOD: And would you propose
13 that there may be access -- I mean, problems
14 with access for emergency vehicles even with
15 the relocation at this point?

16 MS. MILANOVICH: Not that I'm
17 aware of. I think that we've asked the fire
18 marshall to weigh in on -- on the proposed
19 emergency access plan. I don't know whether
20 we've heard back from them.

21 MR. HOOD: Right. Well, according
22 to the DDOT letter, they have -- I think they

1 are asking -- DDOT is asking for something in
2 writing and they asked you to get it and that
3 has not happened as of yet.

4 Do you still anticipate that? I
5 know all you can do is ask.

6 MR. SAXENIAN: I understand that
7 our consultants did have a conversation with
8 the fire marshall and the fire marshall
9 indicated that he thought the emergency access
10 plan that we were proposing was acceptable.
11 We did ask for that in writing and they are
12 not willing to give that in writing. So,
13 that's my understanding of that situation.

14 Apparently, it's not common
15 practice to provide that in writing prior to
16 the zoning process.

17 MR. HOOD: Mr. Feola, is that
18 common practice? You've been around awhile?
19 And I've seen -- I've seen some in writing so
20 I'm wondering when did that start?

21 MR. FEOLA: Don't be insulting my
22 age.

1 MR. HOOD: Oh, I'm not. Sorry. I
2 didn't mean to do that. But I know you have
3 experience.

4 MR. FEOLA: No. That is pretty
5 common practice that the fire department will
6 not issue reports to private entities. They
7 will approve or not approve of an application.
8 They would through the Office of Planning if
9 it were requested from the Board to the fire
10 department. So, that's been their practice
11 for at least 10 years now.

12 MR. HOOD: it's automatic who
13 requested it. Because I have -- I know I've
14 had the same, Madam Chair, things in writing
15 from the fire department. I'm not sure how we
16 got it but we have got it. Okay.

17 Thank you.

18 Thank you, Madam Chair.

19 CHAIRPERSON MILLER: Other Board
20 questions?

21 Okay. Then do the ANCs have any
22 cross examination for these witnesses?

1 MS. REEVES: I have a question.

2 CHAIRPERSON MILLER:

3 Put your mike on.

4 MS. REEVES: The study that was
5 done in 2007 being done in January, you're not
6 going to have as many student drivers. Right?
7 That's my understanding that normally you got
8 a lot more student drivers in March, April and
9 May as more seniors and juniors are getting
10 their licenses.

11 So, I think that -- and also the
12 thing about two percent of them being on 37th
13 Street. That concerns me because that's how
14 many admit to being on 37th Street and having
15 been a teenager and having raised two
16 teenagers I wonder how many there are that
17 aren't admitting to it.

18 This was a survey. Right? It
19 didn't include every single student. So, if
20 every single student isn't required to stay,
21 that really concerns me and I think there
22 should be some --

1 CHAIRPERSON MILLER: You're going
2 to have a chance to testify, but do you have
3 a question, ma'am?

4 MS. REEVES: Yes. My question is,
5 what's being done about it?

6 MR. SAXENIAN: Okay. First of
7 all, the policy of not parking on 37th Street
8 is a school policy, it's not a -- it's not in
9 our zoning order. It's the -- I think the
10 actual impact there is pretty minimal if
11 you've got 465 students, 89 percent of whom
12 arrive in cars that's about, I don't know, 415
13 or something.

14 And let's say it's about 400
15 roughly and about a little less than two
16 people per car. And you've got a little less
17 than two percent of those on 37th Street. So,
18 two percent of 400 is 8 people, two per -- I
19 mean, four cars. It's a -- it's a very small
20 impact.

21 My observation is that 37th
22 Street, although we do try to manage that down

1 to zero, and we have the principal of our
2 middle school out -- virtually every morning
3 and every afternoon. She is personally on the
4 road there and she's watching who is parking.
5 So, I think the impacts are really, really
6 minimal. There are lot of unrestricted
7 parking spaces there.

8 You know, what's happening is that
9 we in response to the community requests we
10 built an extra level of parking. It's the
11 most convenient location on the campus for
12 people to park so people naturally gravitate
13 towards that location. Part of being a
14 student occasionally is testing the limits.

15 CHAIRPERSON MILLER: Absolutely.

16 And other questions?

17 MS. BANTA: I'd just like to know
18 if you all have engaged in any conversations
19 with DDOT about how to manage traffic and
20 parking during the construction process?

21 CHAIRPERSON MILLER: Okay. Well,
22 you can answer, but --

1 MS. BANTA: Is that outside the --

2 CHAIRPERSON MILLER: Well, yes.

3 That's -- that's one of the major issues --

4 MS. BANTA: I'll withdraw that
5 then.

6 CHAIRPERSON MILLER: -- that we
7 don't have authority over construction
8 management so it might be a waste of time to
9 address it in this proceeding.

10 MS. BANTA: Okay.

11 CHAIRPERSON MILLER: Okay. If
12 there is something you actually are burning to
13 say, you can go ahead.

14 MR. SAXENIAN: I'd just say that
15 we do have an agreement with the ANC -- with
16 ANC-3C which has been endorsed by ANC-3F that
17 says that we will provide parking for
18 contractors, the workers in our construction
19 process.

20 CHAIRPERSON MILLER: Thank you.
21 Okay.

22 Anything else?

1 VICE CHAIRMAN LOUD: One quick
2 question, Madam Chair.

3 On page 11 of your pre-hearing
4 submission report, first let me commend you on
5 your report and your presentation today. It's
6 been extremely helpful.

7 But on page 11 you talk about the
8 outdoor play area for the children in the
9 development center. I just wanted to know had
10 you shared that with the ANCs as part of the
11 briefing?

12 MR. SAXENIAN: We did.

13 VICE CHAIRMAN LOUD: And you
14 shared with them as you represent on page 11
15 which is essentially that you'll have an
16 outdoor play area adjacent to the current
17 building where the young people will be and
18 because of the small number of children, you
19 don't expect any major noise impacts.

20 MR. SAXENIAN: We did.

21 VICE CHAIRMAN LOUD: Okay. And
22 were there any concerns raised at that time?

1 MR. SAXENIAN: I think in ANC-3C
2 there was a question about whether we would be
3 blocking emergency access along the north edge
4 of the campus and the answer was no.

5 VICE CHAIRMAN LOUD: Thank you.
6 Appreciate it.

7 MR. SAXENIAN: You're welcome.

8 CHAIRPERSON MILLER: Just to
9 follow up on Mr. Loud's question about the
10 outdoor play area.

11 What's in that area now?

12 MR. SAXENIAN: It's essentially
13 unused. It used to be parking for the Sensner
14 Building and now because there's no -- there's
15 no traffic there except for, you know, campus
16 vehicles, you know. It's essentially unused
17 right now.

18 CHAIRPERSON MILLER: So, it's not
19 near a resident, is that right?

20 MR. SAXENIAN: It is not.

21 CHAIRPERSON MILLER: Okay. Okay.

22 Then if you don't have anything

1 else at this point, Mr. Feola, we'll go Office
2 of Planning.

3 MS. THOMAS: Good afternoon, Madam
4 Chair, Members of the Board. I'm Karen Thomas
5 for the Office of Planning.

6 The request before us has been
7 well presented by the applicant so I won't
8 rehash a whole lot of what's in the
9 application except to say that we are in
10 support of the request to modify the
11 previously approved plan, including relocation
12 of the new gymnasium to an underground
13 existing athletic field and reusing the same
14 gym for the use of Meeting House.

15 We haven't seen any new facts
16 since the Board's previous approval to
17 indicate that the proposed changes would have
18 an adverse impact on the neighborhood,
19 including changes to the number of required
20 parking spaces or the number of students and
21 staff that were previously approved.

22 We see the reuse of the existing

1 gym as reducing the amount of construction on
2 the site and inconvenience of such
3 construction in the neighborhood. So, the
4 changes to the plans would not be
5 objectionable due to noise, traffic or other
6 conditions, as we see the changes continue to
7 account for these factors in its site plan and
8 design.

9 With respect to the child
10 development center we also recommend approval
11 of that for a period of five years. And I'd
12 like to address on the record that the
13 applicant modified it's original number from
14 12 to 16 and we worked off of the previous --
15 the earlier submission. So, we have no
16 objection to 16 -- 16 day care attendees and
17 I think six staff.

18 So, since the day care would be
19 located on the campus drop off and pick up
20 should not be an issue, since it would be
21 exclusively for children of staff persons at
22 this time.

1 If in the future other children
2 were allowed to attend, drop off and pick up
3 should not be an issue within the frame work
4 if all drop off and pick up continued to be at
5 or below grade facility and we believe that
6 for that it meets the requirements of Section
7 205 as outlined in our report. And we believe
8 that both request comply with the intent of
9 the regulations with no adverse impact on
10 adjacent property anticipated.

11 Thank you.

12 CHAIRPERSON MILLER: In your
13 report on the last page you make some
14 recommendations to the Board and one is that
15 you put a term of five years on the child
16 development center.

17 Do you want to address the reasons
18 for recommending that?

19 MS. THOMAS: Just going back on
20 previous examples and situations as this is a
21 new situation for this school. The way I
22 thought about it was that maybe in the future

1 they might want to come back with a little bit
2 more students or day care attendees. And
3 maybe the community themselves might want to
4 have some of their kids come in and in case
5 that is not in agreement with the ANC, I think
6 that something should be worked out with the
7 ANC.

8 So, if that agreement is favorable
9 to the ANC, then they can come back. But I
10 didn't want that if it's unlimited and they
11 could increase unlimited and then the ANC
12 would be sort of disturbed about it.

13 So, I thought that five years to
14 start would be sort fair to the community
15 because it's typically within that frame of
16 time that you have -- you see the program, you
17 know, works or not or how it's progress. And
18 then after that if it's sort of settled down,
19 maybe we could agree to a longer time.

20 CHAIRPERSON MILLER: I mean it's--
21 it's often the case that we put a term on a
22 new situation, but that is usually because

1 we're concerned about some adverse impacts
2 that might result and we want to let it test
3 out and see.

4 If an applicant wants to increase
5 the number or change the parameters as set
6 forth in the order, they could bring a new
7 special exception at anytime. So, it wouldn't
8 necessarily be to serve their purposes.
9 Correct?

10 MS. THOMAS: That's good.

11 CHAIRPERSON MILLER: Do you see
12 adverse -- do you see possible adverse impacts
13 that you think that the five years would be a
14 good check on, that, you know, let's see if
15 like something might happen in that period.
16 Is there something that you can anticipate
17 might happen that we need to watch out for and
18 have them come back within a term's period?

19 MS. THOMAS: The only thing I
20 could see is if that, you know, the child
21 development center were to probably develop
22 into a full fledged. That would be another

1 program, not as an accessory program for the
2 school. But like a new program altogether.

3 What if they decide they want to
4 have a lot of day care attendees? I don't
5 know how many. Fifty? Sixty? I don't know
6 what impact that might have.

7 CHAIRPERSON MILLER: But let me
8 see. Would it be under the order that we
9 would be considering at this point, they would
10 be limited to 16 children and 6 faculty. And
11 I have to take another look at this, you know,
12 and hear again from the applicant whether they
13 would be restricting to just children of
14 faculty or not. I'm not clear on that.

15 But given those kind of
16 parameters, there wouldn't be a risk of them
17 becoming a full-blown larger enterprise?

18 MS. THOMAS: Right.

19 CHAIRPERSON MILLER: Yes.

20 MS. THOMAS: It's fair to assume
21 that I don't believe that it will be if it's
22 limited to faculty at this time, that it

1 should have any -- but in case they want to in
2 five years review -- have a review and change,
3 if they take it to the community, you know,
4 they are free to come before the Board.

5 CHAIRPERSON MILLER: Okay. And in
6 drafting your report, did you confer with
7 DDOT?

8 MS. THOMAS: I did ask DDOT a
9 couple of questions through e-mail and they
10 said they were going to submit their report
11 separately to the Office of Zoning.

12 CHAIRPERSON MILLER: Okay. Well,
13 let's deal with then Office of Planning alone
14 first.

15 MS. THOMAS: Oh, I'm sorry. I'd
16 like to recognize that we do have DDOT here --
17 Jeff Jennings from DDOT.

18 CHAIRPERSON MILLER: And we
19 definitely do want to hear from DDOT because
20 were given a letter/report from DDOT. We just
21 got it today and so we haven't had a long time
22 to read it. And there are a lot of issues

1 that are addressed in it.

2 I just want to make sure before we
3 hear from -- sorry, what's your name? Jeff
4 Jennings. Jennings. That we -- is there any
5 other Board questions for Office of Planning?

6 VICE CHAIRMAN LOUD: Yes.

7 CHAIRPERSON MILLER: Yes. Go
8 right ahead.

9 VICE CHAIRMAN LOUD: Just
10 clarification.

11 As a result of the exchange
12 between Madam Chair on the issue of the five
13 years, I'm not certain that's whether it's
14 something that in light of your understanding
15 that they're talking about 16 students and 6
16 faculty. Is that still a condition that your
17 office recommends, the five year period?

18 MS. THOMAS: Yes.

19 VICE CHAIRMAN LOUD: Is it
20 something that you'd reconsider and I only ask
21 it in the context of our body being required
22 to give your recommendations great weight.

1 And I wouldn't want you to change it just
2 because, you know, there's some exchange on
3 the issue of 16 and 6. But is it something in
4 light of your understanding being changed now
5 that we're not talking about 50 students and
6 we're not talking necessarily about children
7 of neighborhood residents? Is it something
8 that your office would reconsider as a
9 condition?

10 MS. THOMAS: Not at this time --
11 no.

12 CHAIRPERSON MILLER: Okay. Why
13 don't we hear from Mr. Jennings.

14 MR. JENNINGS: Hi. Good
15 afternoon, Madam --

16 CHAIRPERSON MILLER: Wait a
17 second. I'm sorry.

18 Do the ANC parties have copies of
19 the report that was filed by DDOT?

20 Okay. We just got it today. Does
21 the applicant have it? You do have it.
22 Correct?

1 Ms. Bailey, would you be able to
2 make copies for the ANC. Thank you.

3 MR. FEOLA: Madam Chair, we have a
4 couple of extra copies. We can give --

5 CHAIRPERSON MILLER: Never mind.
6 Never mind. Mr. Feola has graciously offered
7 to give them copies.

8 Thank you.

9 Perhaps, you can go over, you now,
10 some of your recommendations since most of us
11 are just seeing it for the first time anyway.

12 MR. JENNINGS: Sure.

13 CHAIRPERSON MILLER: Okay.

14 MR. JENNINGS: Thank you very
15 much.

16 For the record, my name is Jeff
17 Jennings. I'm Transportation Management
18 Specialist for Ward 3 in the District of
19 Columbia for the District Department of
20 Transportation, DDOT.

21 We have -- we've thoroughly
22 reviewed the application and know that there

1 are a couple of items in the application that
2 some of the meetings with the ANC as well as
3 revealed that the November 15 open house at
4 the applicant's location. We became aware of
5 some of the concerns. And as you can see in
6 the report, those are -- those are some items
7 that we perhaps would like to see addressed
8 them being the emergency access, which I
9 believe Commissioner Hood touched upon
10 previously inside the private property.

11 We've had a couple of site visits
12 ourselves, one with the applicant
13 approximately two years ago with fire and EMS
14 officials accompanied us. And most recently
15 I was on the campus myself just last week just
16 taking a view of fire access and emergency
17 access vehicles in general.

18 So, those still tend to be items
19 that we have on our minds at the District
20 Department of Transportation. I contacted my
21 counterpart within the agency who tends to the
22 trees in Ward 3. My co-worker Earl Eutsler.

1 He's the urban forester for Ward 3.

2 Earl let me know that he has not
3 seen any of the -- any of the application to
4 construct the gym, construction circulation
5 through the site and I have an e-mail.
6 Unfortunately, he couldn't join us here today.
7 Earl Eutsler couldn't but I have copies for,
8 I guess, some of the Commission.

9 But Earl writes to me in his e-
10 mail. We issued a stop work order during the
11 first go around due to insufficient tree
12 protection. I made several attempts to meet
13 with the Sidwell representative of the
14 project, Mike Saxenian but never succeeded.

15 I would attend the BZA hearing but
16 have a schedule conflict. And he goes on with
17 some of the comments that actually folded into
18 the actual DDOT report.

19 As yet this office, meaning the
20 Urban Forestry Office, has yet -- has not been
21 asked to review any construction plans Sidwell
22 might have so I can't speak to the specifics.

1 That, notwithstanding, I can tell
2 you that the techniques employed by Sidwell's
3 contractor during the first round of supposed
4 green building were not acceptable and will
5 not be tolerated, although the word "not" is
6 not inserted in this e-mail, during any future
7 construction.

8 So, I can pass those down to you
9 if it helps.

10 CHAIRPERSON MILLER: Let me just
11 say this, Mr. Jennings.

12 I know you covered a lot of
13 issues, but I don't now if you were listening
14 to our conversation before. We don't have
15 jurisdiction over construction.

16 MR. JENNINGS: Sure.

17 CHAIRPERSON MILLER: So, that's
18 really not something that we would be
19 addressing.

20 MR. JENNINGS: Another item that
21 has come to our attention is the circulation
22 on the public right of way during

1 construction, during the last round of
2 construction.

3 The trucks --

4 CHAIRPERSON MILLER: Again, that
5 sounds like a construction issue. We deal
6 with the permanent changes resulting from a
7 granting of zoning relief.

8 So, I mean, I think that you have
9 some concerns, but they're probably being
10 raised before the wrong body.

11 I cut you off with respect to
12 construction. Is there more though that's not
13 construction related?

14 MR. JENNINGS: You know, inside
15 the applicant's report on pages 5 and 11, if
16 we want to look at the numbers, you know, as
17 far as this being a lead platinum certified
18 building. You know, with respect to the
19 transportation impact that it has that's
20 always been a concern at DDOT as well, meaning
21 the amount of public transportation versus the
22 use of single occupancy vehicle at the

1 institution itself.

2 CHAIRPERSON MILLER: let me ask
3 you this.

4 We're considering an application
5 that is making a change in the location of
6 the gymnasium from one place above ground to
7 another place below ground. And the
8 initiation of a child development center.

9 Are there certain traffic
10 ramifications from those two things that
11 you're concerned with?

12 MR. JENNINGS: The use of the
13 gymnasium after it's completion which, again,
14 I refer to the report. One of the items that
15 we first reference

16 inside the report is the use of
17 the gymnasium after its completion.

18 We are aware that the applicant
19 currently has some rental uses of the athletic
20 space and we realize that with -- after the
21 completion of the athletic space, the
22 applicant has the opportunity to rent that

1 space out as they rent out space on their
2 campus now.

3 And that's still -- still a
4 concern of ours with respect to how much more
5 they can rent out that space, the intensity of
6 the use after its completion.

7 CHAIRPERSON MILLER: What do you
8 mean, still a concern? Was that a concern in
9 2004?

10 MR. JENNINGS: Unfortunately, I
11 wasn't at DDOT in 2004, Madam Chair, so I did
12 try to reference a prior report. It didn't
13 necessarily appear to be something of a
14 concern. I'm not sure that my predecessor or
15 predecessors were aware that the space was
16 rented out at that time.

17 CHAIRPERSON MILLER: Mr. Feola, I
18 was not a Board -- Mr. Hood, you weren't on
19 the Board that heard Sidwell, were you?

20 MR. HOOD: No.

21 CHAIRPERSON MILLER: In 2004?

22 MR. HOOD: No. I might have been

1 around but I wasn't on the Board.

2 CHAIRPERSON MILLER: Okay. Mr.
3 Feola, were you representing Sidwell?

4 MR. FEOLA: I was.

5 CHAIRPERSON MILLER: Did this
6 issue come up?

7 MR. FEOLA: It did not.

8 CHAIRPERSON MILLER: Okay.

9 So, this issue didn't come up and
10 there is a 2004 order in effect that granted
11 permission to the school to build a gymnasium
12 and in that decision I have read the decision
13 and that's what's really what we look to. I
14 read the transcript from all the hearings.

15 And from what I understand, this
16 may not have come up. But that decision had
17 to deal with the impact of the gym on the
18 neighborhood.

19 So, I'm not clear how -- what I
20 was trying to say before was that we're not
21 relitigating what was done in 2004. In 2004
22 Sidwell was allowed to build this new

1 gymnasium and what's happening now is a
2 relocation underground.

3 So, my question is, unless -- is
4 there something that has happened that should
5 cause us to now consider these rental
6 agreements?

7 MR. JENNINGS: Well, it appears --
8 it appears to us that expanding the size of
9 the facility and making it more modern may
10 attract more parties to want to rent it out
11 than may currently happen or currently exists.
12 We would encourage the applicant to perhaps
13 put a cap on those rental conditions.

14 We've never actually heard of any
15 kind of rental prior to attending some of the
16 public meetings that were held between two
17 ANCs and their open house. So, that became
18 part of our discussion at DDOT as well over
19 the past two, three months.

20 CHAIRPERSON MILLER: Well, okay.
21 You're recommending a restraint, you know, on
22 the school's programming. I mean, it's the

1 school. It's outside programming.

2 And my question is then if you're
3 doing so, I think it should be based more on
4 speculation of like that may create a problem.
5 I mean, what -- do you have anything specific
6 that there's a growing problem that you're
7 trying to address?

8 MR. JENNINGS: We have heard from
9 quite a few residents in the direct vicinity
10 of the institution and come to realize that
11 parking impacts whether they be during the day
12 or at night they have become much more
13 noticeable, especially on 37th and Quebec
14 Streets. Previously Quebec was not listed as
15 a street. That's unsigned or lacks any kind
16 of designation for parking. So, the
17 institution has had the opportunity to also
18 park on Quebec Street and that part of, I
19 think, that two percent number that was
20 addressed earlier by the applicant.

21 So, parking on those two streets
22 both during the day at nighttime, we've heard

1 from residents along Quebec. Even residents
2 along Tilden Street just to the east of 37th
3 Street. Those are concerns and, therefore,
4 that's the reason why this has been brought to
5 I think as much to our attention.

6 CHAIRPERSON MILLER: Two percent
7 parking on 37th Street is what's driving your
8 concern about the rental agreement?

9 MR. JENNINGS: No.

10 CHAIRPERSON MILLER: No.

11 MR. JENNINGS: I think that we
12 have heard from just quite a few resident in
13 general. It's no particular number at all.
14 But residents in general around the
15 institution have noted that parking on those
16 side streets has been a particular issue for
17 quite sometime.

18 So, that's why I think the point
19 I'm trying to go for here is that putting a
20 cap on the rental once the completion of the
21 athletic space is completed, putting a cap on
22 where they are now versus maybe extending it

1 more after the new facility is completed would
2 perhaps assist us at DDOT with combating some
3 of those parking problems that we've seen and
4 heard about.

5 CHAIRPERSON MILLER: I'm sorry.
6 Just -- you know, you haven't testified
7 before, I don't think so. We just -- when we
8 make our decisions, we really need to base it
9 on specific facts.

10 So, I thought that I heard you say
11 again that the reason for this was to counter
12 the parking problems that we've heard about.
13 I don't recall yet hearing about a parking
14 problem except for this two percent which is
15 like eight cars during the day. That's all I
16 recall hearing at this point.

17 MR. JENNINGS: I think perhaps
18 it's not been necessarily said because of the
19 unrestricted parking around the campus. So,
20 in other words, the Quebec Street and 37th
21 Street is completely unrestricted.

22 At the Department of Public Works,

1 which has the opportunity for parking
2 enforcement, they don't necessarily have the
3 opportunity to enforce parking on those
4 streets just yet.

5 DDOT is currently taking action to
6 try and install the proper signage to combat
7 some of the parking woes we've heard about
8 from the residents. However, again, the
9 rental of the athletic space, making sure to
10 those parking impacts that we've heard about
11 from the surrounding neighbors.

12 CHAIRPERSON MILLER: Okay. Okay.

13 You're talking about parking rules
14 you've heard about. We haven't heard them yet
15 except through you. We're hearing it now
16 because what I did hear about was two percent
17 student -- upper school students parking on
18 37th Street which may be eight cars or
19 whatever. But that's during the school day
20 and has nothing to do with the rental
21 situation. But that would be after hours or
22 on weekends.

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1 MR. JENNINGS: That's right and
2 that's unfortunately when the Department of
3 Public Works, they are not able to cite
4 vehicles. So, in other words, a lot of the
5 parking enforcement officers at Department of
6 Public Works, they're not on their shifts
7 after for instance, 7:00 or 8:00 at night.
8 So, that's when maybe the impacts are actually
9 there on the streets. And that's when we've
10 heard often times when these may be occurring.

11 CHAIRPERSON MILLER: Okay. I just
12 want to be clear.

13 You're talking about illegal
14 parking on 37th Street or are you talking
15 about legal parking on 37th Street?

16 MR. JENNINGS: Illegally on --

17 CHAIRPERSON MILLER: Illegal.

18 MR. JENNINGS: -- on 37th and
19 Quebec.

20 CHAIRPERSON MILLER: On 37th --
21 illegal parking on 37th and Quebec that hasn't
22 been able to be ticketed that you know is

1 attributed to Sidwell's rental?

2 MR. JENNINGS: That's correct.

3 CHAIRPERSON MILLER: Okay. With
4 respect to the EMS issue --

5 MR. JENNINGS: Yes.

6 CHAIRPERSON MILLER: I'm not sure
7 if I understand this correctly, but it sounds
8 like -- Mr. Feola said that the fire
9 department doesn't normally issue a report to
10 a private party with respect to meeting the
11 access requirements, emergency access
12 requirements, but that DDOT could ask for a
13 report form EMS. Is that right?

14 MR. JENNINGS: I presume we could.
15 I've never actually been asked to or been --
16 had that question put back on the institution.
17 I've drafted comments for give or take about
18 half a dozen Office of Zoning and BZA cases
19 since I've been with the agency for two years
20 now -- for a little over two years. And it
21 seems the applicant has already or has been
22 able to bring those comments to use to note

1 that the emergency access is sufficient even
2 on non-Office of Zoning cases.

3 We have a small controversial case
4 going in on Wisconsin Avenue where the fire
5 department responded to the ANC as well as the
6 applicant in that particular case.

7 CHAIRPERSON MILLER: So, in order
8 to resolve this issue we could easily do this
9 by the Board requesting through Office of
10 Planning or such that we get a report from the
11 fire department? Is that correct?

12 MS. THOMAS: Okay.

13 CHAIRPERSON MILLER: Okay. Then
14 why don't we do that then.

15 Okay. You're last sentence on
16 your report states that with respect to
17 impacts -- additional vehicle impacts -- well,
18 let me just read it.

19 Although the applicant reports
20 that the proposed plan will have no additional
21 vehicular traffic impact DDOT has particular
22 objections to the application that need to be

1 addressed. And what are those?

2 MR. JENNINGS: I think that we did
3 our best to try to list them here in this
4 report.

5 CHAIRPERSON MILLER: But they're
6 what's listed in the report. They're not
7 additional that you haven't cited in your
8 report?

9 MR. JENNINGS: We could go into
10 great length and detail about intermodel split
11 and some of the -- some of the questions that
12 I asked about intensity of land use and the
13 impacts on the surrounding network. But I
14 don't necessarily know if that's where you
15 want to go with this hearing today.

16 CHAIRPERSON MILLER: Well, my
17 question is. Again, there already was a
18 hearing about the impact of the -- having this
19 new facility. Now, is there some new concerns
20 with respect to the facility as a result of
21 its relocation or are you concerned that it's
22 going to be -- I think what you said maybe a

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1 better facility so that's going to create new
2 problems?

3 Because we're not -- we're not,
4 you know, relitigating --

5 MR. JENNINGS: Sure.

6 CHAIRPERSON MILLER: -- the 2004
7 application. Okay.

8 MR. JENNINGS: Yes. I think that,
9 you know, with respect to a new facility, an
10 improved facility, there stands a chance of
11 some new interest in renting out the facility
12 which as we spoke about earlier would perhaps
13 contribute to some of the parking concerns
14 that we've heard about that are already
15 existing and I've been out to observe the
16 signal light at Rodman and Wisconsin on a
17 couple of mornings. We know that the queuing
18 at that particular signal is probably close to
19 being maxed out. You know, the onus was put
20 back on the city to optimize the signal once
21 the institution had opened its parking garage
22 right there on this property. And we did our

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1 best to try and maximize the signal or
2 optimize the signal.

3 However, you know, if more
4 vehicles may choose to use that southbound
5 left-hand turn to gain access into the parking
6 garage, that may trigger an effect, a further
7 effect on the Wisconsin Avenue corridor.

8 CHAIRPERSON MILLER: More vehicles
9 are going to use that as a result of the
10 change in location of the facility?

11 MR. JENNINGS: Perhaps.

12 CHAIRPERSON MILLER: Perhaps?

13 MR. JENNINGS: These are things
14 that we take into consideration.

15 We've talked about at some length
16 within the agency whether or not the school
17 has the opportunity or the institution has the
18 opportunity to host a large event upon the
19 completion of the athletic facility.

20 CHAIRPERSON MILLER: Again, it's
21 not permission to have anew athletic facility,
22 it's a change in location. So, all those

1 issues should have been addressed in the 2004
2 decision.

3 Okay.

4 MR. JENNINGS: I think where I
5 stand, Madam Chair, is you know having heard
6 the applicant present to each of the
7 neighboring ANCs and then present at their own
8 meeting, you now, I think some of the concerns
9 that I've heard through these various meetings
10 are ones that, you know, we tried to discuss
11 within the agency and see if there were some
12 solutions that we could try and work on. But
13 it seems as though what you see in the report,
14 although I may not have been part of the
15 record back in 2004, again, when my
16 predecessor drafted some comment, perhaps,
17 but, you know, these are things that we -- we
18 wanted to make note of here in 2008.

19 CHAIRPERSON MILLER: Okay. Thank
20 you.

21 MR. JENNINGS: Thank you.

22 CHAIRPERSON MILLER: Others?

1 VICE CHAIRMAN LOUD: Good
2 afternoon, Mr. Jennings. Welcome.

3 MR. JENNINGS: Good afternoon,
4 thank you.

5 VICE CHAIRMAN LOUD: Just a couple
6 quick follow up questions.

7 MR. JENNINGS: Sure.

8 VICE CHAIRMAN LOUD: Sort of the
9 way I processed your testimony at least on the
10 issue of the parking in relation to the gym
11 and it's location and outside groups using it
12 is that there will be some illegal parking or
13 some additional traffic on 37th and on Quebec
14 as determined by you based on either
15 conversations you had or overheard at ANC
16 meetings or community meetings.

17 MR. JENNINGS: That's correct.

18 VICE CHAIRMAN LOUD: Are you able
19 to quantify the number of complaints you got
20 along those lines?

21 MR. JENNINGS: I would spot it
22 somewhere in the area of four to six.

1 VICE CHAIRMAN LOUD: Four to six.
2 And is there a time span during which you
3 heard those complaints?

4 MR. JENNINGS: I began to take a
5 close look at the application sometime back
6 in, I guess, give or take late September or
7 early October. You know, I think I reached
8 out to the applicant in the first week in
9 December to try and see, you know, if they
10 could answer some of our questions we had with
11 respect to impacts. And I didn't really hear
12 much back from them.

13 We never had the opportunity to
14 actually sit down with the applicant and
15 relook at the application, considering that,
16 you know, staff has turnover and whatever else
17 it probably would have been a little helpful.

18 VICE CHAIRMAN LOUD: But there
19 would have been a high of six and a low of
20 four between September and say the present?

21 MR. JENNINGS: Give or take. Yes.

22 VICE CHAIRMAN LOUD: Okay. And

1 were these all at community meetings or ANC
2 meetings?

3 MR. JENNINGS: That's correct. I
4 -- if I didn't hear about them through each of
5 the ANCs that are affected by them, I heard
6 about them through e-mail correspondence.

7 VICE CHAIRMAN LOUD: Okay. Apart
8 from the e-mail correspondence, were these
9 folks that you spoke to directly or a member
10 of the audience that you sat in and you heard
11 them raise these concerns?

12 MR. JENNINGS: At ANC-3C I can
13 probably say that there were two to four folks
14 in attendance at that particular meeting and
15 then ANC-3F probably one or two -- e-mail
16 correspondence, maybe one or two.

17 VICE CHAIRMAN LOUD: Thank you. I
18 appreciate it.

19 MR. JENNINGS: Thank you.

20 MR. HOOD: Madam Chair, Mr.
21 Jennings, unless I missed something I think
22 you already have the enforcement ability in

1 the conditions I'm sure from previous orders
2 to move and deal with those issues that you've
3 heard at those ANC meetings. And would you
4 say -- you've been monitoring I guess looking
5 at the order for a few months now, would you
6 say I'm correct?

7 MR. JENNINGS: I'm sorry. As far
8 as enforcement, what do you mean by that?

9 MR. HOOD: To do -- to implement
10 the plan. I think -- I think, for example, in
11 the order it -- one of the old orders, 2004,
12 and I'm not sure what predates that, but it
13 says the applicant shall fully implement and
14 comply with the Transportation Management
15 Plan.

16 Now, I'm saying that not knowing
17 what's in it, but I'm sure if I know my
18 colleagues and especially the names that I see
19 here, I'm sure that there are some remedies
20 that are already in that order that can be
21 taken care of, that can be dealt with. The
22 issues that you've heard at ANC meetings.

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1 MR. JENNINGS: I think when you
2 get into the rental of the space, I don't now
3 if that's part of the order. I don't believe
4 it is.

5 MR. HOOD: Well, I'm talking about
6 case in point. I'm not necessarily talking
7 about the rental part. I think the
8 chairperson, Madam Chair, has really addressed
9 that sufficiently. I'm talking about
10 violations as far as neighborhood parking. I
11 think that the order specifically and I
12 actually read that while I was sitting here.
13 So, I think that specifically -- in other
14 words, what I'm saying Madam Chair, I think we
15 already have the mechanisms for him to move
16 forward with some of the issues that he's
17 addressing here today. I think you already
18 have it. And I may be missing something, I
19 don't know. I didn't sit in on the previous
20 case.

21 MR. JENNINGS: Yes. I didn't
22 either. I mean, I haven't had the opportunity

1 to read the previous order.

2 MR. HOOD: Okay.

3 MR. JENNINGS: You know, as far as
4 enforcement is concerned, you know, we do get,
5 I think, quarterly or every six month report
6 from the institution noting its intermodel
7 split. You know, what we perhaps are not
8 receiving and, you know, if it's something
9 that, you know, perhaps is out there is to
10 perhaps reach out to the applicant and see
11 what it is that they're doing as far as rental
12 of the facility at the current time and where
13 they may go after.

14 CHAIRPERSON MILLER: Can I jump in
15 here again because you know just for our
16 purposes of evaluating the case it seems to me
17 that you're recommending a cap on rental
18 agreements in order to solve a parking related
19 problem. Is that right?

20 MR. JENNINGS: I would say it's
21 parking -- in addition to parking it would
22 perhaps look at the surrounding network

1 including Wisconsin Avenue.

2 CHAIRPERSON MILLER: What problem
3 do you want us to address with the rental? I
4 mean, how would that relate to what's going on
5 on Wisconsin Avenue? I'm not following you.

6 MR. JENNINGS: We're looking at it
7 from as we do in many cases a worst case
8 standpoint. If the applicant had the
9 opportunity to rent the space out, what kind
10 of impacts would that have on the surround
11 network of streets knowing that there would be
12 a substantial amount of parking needed for a
13 huge event.

14 CHAIRPERSON MILLER: So huge that
15 they couldn't accommodate it with their
16 underground parking garage?

17 MR. JENNINGS: Their monolithic
18 parking garage.

19 We -- we're not really, you know--
20 again, we look at it from a worst case
21 scenario. A 307 parking space supply could be
22 consumer rather easily is how we see it even

1 with a big event held inside of a new facility
2 such as this.

3 CHAIRPERSON MILLER: Okay. Any
4 other questions?

5 MEMBER DETTMAN: Just one, Madam
6 Chair.

7 I noticed related to this issue of
8 parking on Quebec and 37th and I think we've
9 established that both Quebec and 37th are
10 unrestricted parking. And correct me if I'm
11 wrong but that means that regardless of where
12 the car is coming from or what ward number is
13 on their sticker, they can park there for an
14 extended period of time. Is that correct?

15 MR. JENNINGS: That's correct.

16 MEMBER DETTMAN: There is no time
17 restriction whatsoever.

18 So, it seems to me --

19 MR. JENNINGS: On the north side
20 of Quebec that's correct. On the south side--
21 on the south side of Quebec, it is RPP
22 restricted, Ward 3 and I think that's it.

1 The east and west portion of 37th
2 is unrestricted, I believe.

3 MEMBER DETTMAN: Well, I think
4 from the applicant's testimony that there is
5 -- there's additional capacity in the garage
6 and there's two percent of the students are
7 soft of deciding to park on these streets.

8 And then there's this rental issue
9 that we may have to address with the
10 applicant. However, it seems to me that there
11 is something that DDOT or DPW can actually do
12 to help solve this problem in addition to
13 addressing it with the applicant and that
14 would be to expeditiously put those two
15 streets back to residential parking. Make
16 them Ward 3 and put two hour parking limits on
17 those streets like any other -- like many
18 other residential streets in the city.

19 So, students are typically at
20 school more than two hours. That might
21 encourage them to drive two blocks around the
22 corner and park in the parking garage that

1 already has additional capacity.

2 So, I'm not suggesting that that
3 would resolve the situation, but it would
4 certainly take advantage of DDOT's authorities
5 to help the situation along.

6 CHAIRPERSON MILLER: Mr. Dettman,
7 I just want to interject that the rental time
8 is not during the school day. So, I think
9 that you're talking about a different issue.
10 But I also think that illegal parking is
11 addressed by parking enforcement.

12 MR. JENNINGS: I understand that
13 the rental issue is after hours, but on many
14 residential streets after a particular hour,
15 parking restrictions open up to anyone.

16 I don't know if DDOT or DPW can
17 actually extend the two hour period into after
18 hours. I'm not sure what their authorities
19 are.

20 But also, I mean, that would help
21 the situation and if this Board is so inclined
22 to ask the applicant to encourage their after-

1 hour rental people to use the parking garage.
2 I don't now how far we can go with that route,
3 but that would be another option to explore to
4 assist the situation.

5 CHAIRPERSON MILLER: Any other
6 questions for DDOT?

7 Let me got to the applicant first.

8 Does the applicant have cross
9 examination for DDOT?

10 MR. FEOLA: I just had a couple
11 because I guess I'm a little confused.

12 DDOT's position is that based on a
13 handful of comments there are parking problems
14 on the public street in the vicinity of the
15 school. Is that basically what you said, Mr.
16 Jennings?

17 MR. JENNINGS: Yes. As we know,
18 the institution is not bordered completely by
19 residences. So, we do take into due
20 consideration the residents that are along the
21 south side of Quebec. We do take into
22 consideration the residence who are along

1 Tilden Street to the east of 37th.

2 MR. FEOLA: But based on the
3 conversations you've had, there are parking
4 problems on those streets?

5 MR. JENNINGS: That's correct.

6 MR. FEOLA: I guess my question to
7 DDOT is, do you ascribe all those parking
8 problems to Sidwell? I mean, do you know how
9 many -- how many employees are at Fannie Mae?
10 Do you know how many parking spaces they have
11 at Fannie Mae?

12 MR. JENNINGS: We do know that Fae
13 -- excuse me. We do know that Fannie MAE F&M
14 adheres to a pretty strict transportation
15 demand management program. We've actually put
16 the onus on F&M --

17 MR. FEOLA: You didn't answer the
18 question. How many carson 37th Street and
19 Quebec belong to Sidwell?

20 MR. JENNINGS: Based upon
21 observation when we've been out there, we can
22 honestly not be sure how many belong to

1 Sidwell. We -- we --

2 MR. FEOLA: But you're here
3 testifying saying Sidwell has to restrict its
4 operation when there's capacity in its garage
5 because of parking problems on 37th and
6 Quebec. I guess I don't understand how DDOT
7 came to the conclusion that Sidwell is
8 creating the problem.

9 MR. JENNINGS: Based upon
10 observation when DDOT staff has been out there
11 to witness students.

12 MR. FEOLA: And when were those
13 observations?

14 MR. JENNINGS: In the past six
15 months or so.

16 MR. FEOLA: Dates? Times of day?

17 MR. JENNINGS: Unfortunately, I
18 don't have my co-workers here to actually
19 provide those times and dates.

20 But, I mean, it is pretty obvious
21 when you do see someone who doesn't look like
22 an F&M employee trying to get out of their car

1 and walk up Quebec Street to the corner Quebec
2 and Wisconsin. That's --that's just not --

3 MR. FEOLA: And they're not taking
4 a bus to go downtown? They're walking around
5 the corner the long way to get to Sidwell.

6 MR. JENNINGS: Correct.

7 MR. FEOLA: Doesn't make any sense
8 to me.

9 MR. JENNINGS: Correct.

10 MR. FEOLA: Walk up the stairs and
11 get to the backside of Sidwell. Why would you
12 go in that direction? There is no entrance to
13 Sidwell on the corner of Wisconsin and Quebec.
14 You have to walk another half a block. I

15 MR. JENNINGS: I know, but if you
16 walk north on Wisconsin you can access the
17 campus that way as I did just last week too.

18 MR. FEOLA: Sure.

19 Mr. Jennings and I worked together
20 the last couple of years on a lot of projects
21 and I guess the one thing that troubles me is
22 his statement to the Board that Sidwell hasn't

1 had -- didn't meet with DDOT. And I'd at
2 least like to turn in a memo I did to Mr.
3 Jennings a couple of weeks ago. At the end I
4 basically offer an opportunity to meet and
5 never heard anything back. And it addresses
6 the rentals, carbon emissions and a whole
7 series of questions that he asked by e-mail.

8 So, I'd like to turn that into the
9 record at least. I'm a little disappointed
10 that we didn't heard from DDOT until about
11 2:00 this afternoon that they had the
12 additional issues.

13 I have no other questions.

14 CHAIRPERSON MILLER: Do you have
15 copies of that for the ANC? Both ANCs?

16 Before we get to the ANCs I would
17 just like to ask the applicant, I assume but
18 I would not know that you would keep a record
19 of complaints that you get and your responses
20 to them. Is that correct?

21 MR. SAXENIAN: Yes. I'm not
22 actually -- you're asking about parking

1 complaints? I'm not aware of any parking
2 complaints since the new garage was put in
3 place.

4 And I would add that this was
5 discussed at the November meeting that Mr.
6 Jennings attended with the neighbors and I
7 believe the position of the neighbors was that
8 they did not want additional restrictions put
9 on parking on -- on 37th Street. And the
10 questions of rentals was extensively discussed
11 at ANC-3C and I guess from our point of view,
12 we thought that that was the process through
13 which neighbors expressed their views.

14 CHAIRPERSON MILLER: And I can't
15 remember exactly how the Sidwell 2004 decision
16 reads. But my guess is that you do have -- do
17 you have like quarterly meetings with the ANC
18 or whatever so that you're in touch with them
19 with respect to community concerns?

20 MR. SAXENIAN: We have a mandated
21 annual report to them and I think in practice
22 we probably end up meeting bi-annually,

1 something like that.

2 I've met every month for the last
3 four months we've met and we met early in the
4 summer with ANC-3C, planning and zoning and
5 then a couple of times with individual
6 commissioners to review our plans. Pretty
7 immediate and ongoing communications.

8 CHAIRPERSON MILLER: And the ANC
9 will speak for itself anyway.

10 But, you know, with respect to
11 communication with the ANC or the community,
12 it's not like the only time they can talk to
13 you would be at the scheduled meetings.
14 Right. If they have a concern do they call
15 you?

16 MR. SAXENIAN: Oh, yes.

17 CHAIRPERSON MILLER: Okay. All
18 right.

19 Do the ANCs have any cross
20 examination for Office of Planning and DDOT?

21 MS. REEVES: I'd like to address
22 this to Mr. Jennings.

1 At our ANC meeting in December we
2 did discuss as Mr. Saxenian said, we did
3 discuss the proposed use of the athletic
4 facility.

5 There were two people in the
6 audience who were -- who talked to us about
7 it. One lives on Quebec right across the
8 street. The other one lives several blocks
9 away, quite a distance away, so his count of
10 people is something that is of concern to me.
11 I'd like to know where this comes from. I
12 don't know who he talked with.

13 MR. JENNINGS: I can honestly say
14 that I'll be happy to go through my e-mail and
15 print for you accordingly. But, you know, I
16 am happy to try and respond. I don't have the
17 correspondence here in front of me.

18 MS. REEVES: Okay. It wasn't
19 correspondence. It was what you said of you
20 spoke to four to six people at our ANC
21 meeting. Those people were not at our ANC
22 meeting.

1 MR. JENNINGS: After your ANC
2 meeting I spoke with ANC Commissioner Bruce
3 Beckner who has major concerns, who I think
4 voted against it. I have since spoken with
5 Katherine Livingston who lives, as you know,
6 right there on Quebec Street.

7 MS. REEVES: Right.

8 MR. JENNINGS: I believe another
9 ANC Commissioner who may have had some
10 significant concerns, although I don't have e-
11 mail correspondence is your Chair, Nancy
12 MacWood who I think voted against the proposal
13 much due in part to some of the concerns that
14 she had that went unaddressed.

15 Do you need more?

16 MS. REEVES: Well, that's not what
17 you said actually. You said you talked with
18 four to six residents and there was really
19 only one resident. I hope that's clear.

20 CHAIRPERSON MILLER: Anything
21 else?

22 Any other Board questions?

1 MEMBER OATES: Madam Chair, just
2 one questions for Mr. Feola.

3 In the interest of having a
4 complete record, do you have a copy of the e-
5 mail correspondence from Mr. Jennings to which
6 your January 10th memo responds?

7 MR. FEOLA: I'll look right now if
8 I have it here. If I don't I certainly have
9 it n the office and I can submit it on the
10 record.

11 MR. JENNINGS: Commissioners, I
12 do, if it helps.

13 CHAIRPERSON MILLER: Yes. We'd
14 like to get it in the record.

15 And, Ms. Bailey, you made copies
16 for the ANC as well as -- thank you.

17 MEMBER OATES: One other question
18 regarding this question of illegal parking.

19 Is it the case that visitors to
20 the institution who are there because the
21 space has been rented out have the ability to
22 use the parking structure?

1 MR. SAXENIAN: They do and in fact
2 one of the things that we agreed with ANC-3C
3 was that all -- that we would request that all
4 future rentals make use of the parking
5 structure.

6 My observation is that they
7 already do. It's the most convenient place to
8 park. It's safe for the cars. We have a lot
9 of vandalism on 37th Street. It's out of the
10 weather. So, I'm not aware of a problem there
11 anyway.

12 And I think it's worth noting as
13 we have in our correspondence to DDOT that the
14 -- that the kinds of rentals that we're
15 talking about are typically six to twelve
16 people at a time in a gym or on a court.
17 Typically, it's -- it's a group that has some
18 connection with Sidwell. There's a Sidwell
19 alumni and their team. And so it's very, very
20 low impact. And, in fact, I think that even
21 apparent to our neighbors as far as I know.

22 MEMBER OATES: Okay. I just

1 wanted to make sure there's no like parking
2 sticker required to enter the garage after
3 hours or anything like that.

4 MR. SAXENIAN: No sticker, no fee.

5 MEMBER OATES: Okay. Thank you.

6 CHAIRPERSON MILLER: I also just
7 want to make a comment that sometimes when
8 we're talking about parking garages, visitors
9 and students don't want -- anyone doesn't want
10 to use them because they're like dark or
11 they've in an inconvenient place. And it's my
12 understanding -- or, you know, they may feel
13 unsafe.

14 Based on the physical attributes
15 of this parking garage which does let light in
16 and is apparently in a convenient place, I
17 thought I heard you say, Mr. Saxenian, that
18 you haven't had the experience that, for
19 instance, the students for the most part are
20 choosing not to use it, that most people are
21 choosing to use it because it is so
22 convenient. Is that correct?

1 MR. SAXENIAN: That's absolutely
2 correct.

3 CHAIRPERSON MILLER: Okay.

4 At this point then I --

5 MR. JENNINGS: Madam Chair?

6 CHAIRPERSON MILLER: Okay. Okay.

7 MR. JENNINGS: Just one last
8 comment.

9 As someone who visited the campus
10 just last Wednesday night and knowing that
11 there were visitors to the campus who didn't
12 even know that the parking structure existed,
13 I guess that supports to an extent some of the
14 concerns of the surrounding neighborhood that
15 we've heard about at DDOT.

16 So, in other words, there was use
17 of the facility by a sports league, an amateur
18 sports league and I believe the amateur sport
19 league is organized by Sidwell, those who have
20 graduated in the past. Again, I don't know
21 that factually, but based upon what the
22 applicant has said here today, entering the

1 gym last Wednesday night and knowing that one
2 game started at 7:00 or 7:30 and the next game
3 started at about 9:00 that evening, you know,
4 again these -- these are things that we took
5 into consideration in putting together our
6 report.

7 What I saw at the gym last
8 Wednesday evening was if anything more
9 confusion over where the parking facility
10 exists, how to access the gym internally from
11 those who were playing on the courts that
12 night. If that helps?

13 CHAIRPERSON MILLER: I just want
14 to ask you.

15 When -- when -- to be more
16 responsive to that problem that there be
17 better signage or, you know, better
18 advertising to groups who are using it as to
19 the existence of the parking lot?

20 MR. JENNINGS: I mentioned that
21 and they -- the folks who were there playing
22 on these courts that night, they did agree to

1 a certain extent with what you said. It seems
2 a lot of people gathered there that evening,
3 didn't even know necessarily how to even get
4 to the institution itself.

5 So, I don't know if signs, now as
6 I always tell folks out in Ward 3 when they
7 request signs for certain measures to be in
8 place, signs help to a certain extent. It's
9 just a matter of how much you want to inform
10 the folks or how much they're willing to pay
11 attention to the signs or adhere to them.

12 CHAIRPERSON MILLER: Okay. Thank
13 you very much.

14 Now, we turn to the ANCs for
15 presentation of your case.

16 Do you have a case to present?

17 Are you doing it separately or
18 together or what?

19 MS. BANTA: Separately.

20 CHAIRPERSON MILLER: Is that ANC
21 3C going first? Okay.

22 MS. REEVES: Hi. Good afternoon.

1 My name is Trudy Reeves. I'm the Commissioner
2 of ANC-3C06.

3 Sidwell Friends is in my SND and I
4 am authorized to speak on behalf of ANC-3C.

5 Over the past four years, other
6 ANC-3D commissioners and I have attended
7 several meetings with Sidwell Friends.
8 Sidwell representatives appeared before the
9 ANC-3C historic review committee, the planning
10 and zoning committee and before the 3C
11 commission at several public meetings.

12 At the regularly scheduled and
13 noticed public ANC-3C meeting on December
14 19th, 2007, ANC-3C approved a resolution
15 conceptually supporting the Sidwell BZA
16 application number 17703.

17 ANC-3C requests that the
18 conditions approved by the Commission in its
19 resolution number 2007-053 be listed as
20 conditions of any BZA order pursuant to
21 Application No. 17703.

22 The athletic facility which is

1 proposed to be built under the existing
2 football field will be located on 37th Street
3 and as has been said faces the Hearst
4 Elementary School and the Hearst Recreation
5 Center and will be seen especially when lit at
6 night from residences on 37th and Tilden
7 Streets. Therefore, ANC-3C asks that the
8 increase in the elevation of the football
9 field on top of the new facility does not
10 exceed two feet. This would be along 37th
11 Street.

12 We ask that the child development
13 center enrollment be kept at 16 students which
14 is the number proposed in the application.

15 During the construction of the
16 middle school in 2006, neighbors experienced
17 the noise and inconvenience of construction
18 trucks on 37th Street and the very narrow
19 Quebec Street. To avoid that during the
20 proposed next phases of construction, we ask
21 that the construction entrance and exit be
22 located on Wisconsin Avenue.

1 The landscaping on Wisconsin
2 Avenue along the existing partially
3 underground garage is sparse and quite frankly
4 not what the ANC had anticipated. Therefore,
5 we ask that the landscaping plans include
6 numerous tall evergreens to shield views of
7 the garage from the street. And black boards
8 shielding the views from the street of the
9 interior lighting inside the garage.

10 Also at the regularly scheduled
11 and noticed public ANC-3C meeting on December
12 19th, ANC-3 -- oh, the Commission -- I'm
13 sorry, I have extra words in there.

14 The Commission discussed proposed
15 outside use of the athletic facility. We were
16 told by Sidwell that the outside use would be
17 similar to the outside use of the existing
18 gymnasium. Therefore, it was the opinion of
19 the majority of the commission that no
20 separate use agreement between ANC-3C and
21 Sidwell is necessary.

22 However, we have requested in

1 Resolution 2007-053 that use of the athletic
2 facility be limited to those activities that
3 are reasonably connected to the school or are
4 consistent with its location in a residential
5 neighborhood.

6 Also, at the regularly scheduled
7 and noticed public ANC-3C meeting on December
8 19th, ANC-3C approved a resolution to amend
9 the existing construction management
10 agreement, called a CMA, between ANC-3C and
11 Sidwell Friends School to extend the permitted
12 construction hours so those permitted under
13 D.C. law during the week and to extend
14 Saturday hours to permit work from 9:00 to
15 5:00 provided there is no objection from the
16 majority of the construction liaison
17 committee.

18 ANC-3C believes it is important
19 that an enforceable construction management
20 agreement be incorporated into the conditions
21 of the BZA order.

22 Central to the agreement is a

1 continuation of the liaison committee formed
2 during the previous construction period
3 composed of representatives from Sidwell,
4 institutional neighbors of the Washington Home
5 and the Hearst Elementary School, the adjacent
6 neighborhood and ANC-3C and 3F.

7 Most importantly, the CMA provide
8 neighbors with some predictability and
9 protections for quality of life during the
10 construction period. At the same time it
11 gives the school's stated construction related
12 allowances and restrictions that will allow to
13 plan efficiently and avoid unnecessary
14 controversy with the neighborhood.

15 While we have conditioned our
16 support and we feel strongly that these
17 conditions must be included in the BZA order,
18 we are also very pleased that we can state
19 that we endorse the proposal and look forward
20 to continuing to work with Sidwell and the
21 neighbors on any other issues that may arise
22 in connection with the proposed construction.

1 CHAIRPERSON MILLER: Thank you.

2 Again, as none of us participated
3 in the earlier Sidwell decision, we don't have
4 knowledge of some history that we might have
5 otherwise.

6 So, I want to ask you here. Is
7 there a use agreement in existence now with
8 ANC-3C and Sidwell?

9 MS. REEVES: No. There is not.

10 CHAIRPERSON MILLER: Okay. With
11 respect to the construction management
12 agreement, I think we've said a few times that
13 we don't have jurisdiction over that. But I
14 want to ask you.

15 How is the -- how does the
16 agreement provide for its enforcement? You do
17 have a construction management agreement.

18 MS. REEVES: Right. We have a
19 construction management agreement. The
20 enforcement is that basically just that the
21 liaison committee will discuss it with Sidwell
22 and hopefully works out a resolution.

1 Whatever is available under D.C. law to
2 enforce it, we would use to enforce it.

3 CHAIRPERSON MILLER: I mean, I
4 don't now if I should pursue this too much
5 further because it really isn't our
6 jurisdiction.

7 But you did have this before with
8 the construction?

9 MS. REEVES: Yes. We did. And it
10 worked.

11 CHAIRPERSON MILLER: And it
12 worked. Okay.

13 I don't understand the two fee
14 issue but I think that perhaps it would be
15 best if the applicant responds to that unless
16 you want to say more on that?

17 MS. REEVES: We don't -- right now
18 where the athletic field is, we don't want it
19 to be increased more than two feet on that
20 side on 37th Street because the more -- the
21 higher it is, the more light will go into the
22 residences.

1 CHAIRPERSON MILLER: But that's
2 not what's represented in the plans. Is that
3 right? And why do you fear that that could
4 happen? Or maybe I could ask the applicant.

5 It sounds like you don't want it
6 to change to be two feet higher.

7 MS. REEVES: To be more than two
8 feet higher.

9 CHAIRPERSON MILLER: To be more
10 than two feet higher.

11 MS. REEVES: Currently is. That's
12 correct.

13 CHAIRPERSON MILLER: I mean we
14 approved plans as are presented to us. So,
15 I'm just wondering. Is there something in the
16 plans with respect to this issue that could
17 change in your view, Mr. Feola.

18 MR. FEOLA: I'm sorry. I was --

19 CHAIRPERSON MILLER: Okay. We're
20 discussing --

21 MR. FEOLA: -- having a sidebar
22 conversation. I apologize.

1 CHAIRPERSON MILLER: ANC-3C asks
2 that the increase in elevation of the football
3 field on top of the new facility above 37th
4 Street does not exceed two feet.

5 Can you respond to that? Is this
6 something that can change from what's
7 represented in the plan or what?

8
9 MR. FEOLA: No. No. And so we
10 were comfortable with the -- with that
11 constraint. The plan is not to raise it at
12 all, but there might be some grading and so
13 there's a -- there might be a little bit of
14 play, no pun intended, in the actual final
15 elevation has to be crowned and some technical
16 things about drainage. But we think two feet
17 is more than we need to be able to have that
18 flexibility to put it in place.

19 CHAIRPERSON MILLER: Oh, okay.

20 Sometimes, you know, one of our
21 provisions or I think the law requires that
22 whatever we approve doesn't change. I mean,

1 the plans. But I hear what Mr. Feola is
2 saying is that this kind of grading thing
3 could change somewhat without violating that
4 and that this protects it from changing more
5 than two feet or higher than two feet.

6 MS. REEVES: The plans now are
7 conceptual. The engineers haven't gotten into
8 it yet. So, once the engineering is done,
9 what we're saying is please. Don't raise it--
10 we don't want it raised more than two feet.

11 CHAIRPERSON MILLER: Okay.

12 MR. SAXENIAN: May I just add one
13 thing?

14 Mr. Feola is not aware that we
15 have had further conversations.

16 I think that the elevation will
17 come up but not more than two feet. And this
18 two foot number arose out of a discussion that
19 we had with ANC-3C. It was the school
20 stipulated that that would be the maximum that
21 the elevation would change.

22 And I believe that's consistent

1 with what you're seeing in your drawing. So,
2 we're not asking for any room to change what
3 we've submitted.

4 CHAIRPERSON MILLER: Okay. I'm
5 just pausing because we're getting to a point
6 where I think it would be useful to have the
7 applicant respond to proposed conditions.

8 But it might be better to do that
9 after ANC-3F testified, you know, okay, to the
10 case and then we can look at proposed
11 conditions.

12 Is that amenable to everybody?

13 Okay. Why don't we do -- are
14 there any other questions for 3C?

15 Okay.

16 MS. BANTA: Good afternoon. I'll
17 try to be very brief.

18 My name is Susan Banta. I am here
19 representing ANC-3F01. I am authorized to
20 speak for the ANC and my single member
21 district is 3F01.

22 ANC-3F met on January 14th of this

1 year to take up this measure and it was out
2 intent after hearing from the applicants to as
3 much -- as much as possible mirror the
4 resolutions that were negotiated after quite
5 a bit of discussion with ANC-3C.

6 Our interest in the case is that
7 we border the school on 37th Street. I'm
8 trying to get my bearings. Is that south?
9 East, excuse me. East on 37th Street.

10 And so we have a few neighbors,
11 not adjacent to the school but quite near by
12 who are potentially impacted by the school.

13 Just very briefly, the resolution
14 of our meeting on the 14th of January was that
15 we endorsed the construction management
16 agreement that ANC-3C made with Sidwell. We
17 also passed a resolution approving the
18 amendment to the BZA order subject to the same
19 conditions that ANC-3C included in their
20 resolution.

21 So, again, our actions basically
22 mirror those of ANC-3C.

1 I also want to add that those
2 resolutions passed unanimously in ANC-3F and,
3 in fact, I think to a person we all took an
4 opportunity during the meeting to congratulate
5 Sidwell on the execution of their plans to
6 date. They've been a tremendously good
7 neighbor. We're very pleased with the outcome
8 of Phase 1 and it was a nice opportunity to
9 hear each and every one of the ANC
10 Commissioners take time to take time to thank
11 Sidwell for not only the outcome of their
12 project today but the process they've engaged
13 in with us in the neighborhood.

14 Just historically, there were a
15 few neighbors initially before the first phase
16 of the project started that were quite
17 skeptical. There was a lot of animosity over
18 parking and traffic before the garage went in.
19 I can say I've heard absolutely no complaints
20 regarding parking in the neighborhood now
21 since the garage opened.

22 I've no doubt that there are

1 people who do complain but it's not something
2 that's ever come up in our meeting. It's not
3 something that I've ever heard in my
4 conversations with residents.

5 And that's really all I wanted to
6 say about the -- the amendment before you
7 today. I do want to take an opportunity since
8 I have some time to address the concerns that
9 DDOT brings today about 37th Street.

10 I'm not aware of problems on 37th
11 Street. I won't speak to Quebec since it's
12 not in my ANC. I will say that regarding
13 residential parking permits, there are no
14 residences on 37th Street. The two schools
15 border on the east and the west and Phoebe
16 Hearst actually has quite a large out of
17 boundary population. So, there are parents
18 coming and going from outside the ward.

19 I would -- we did not vote on this
20 at the ANC so I cannot speak for us as a body,
21 but as a single member commissioner for that
22 area, I would advise against taking that

1 action just because there are no residences
2 there and I think it's probably DDOT's policy
3 not to make them residential for that reason.

4 I do think that they serve the
5 community the way they are.

6 And that's really all I wanted say
7 and I think you for the opportunity to speak
8 to you today.

9 CHAIRPERSON MILLER: Thank you.
10 Are there Board questions?

11 I mean, I have a question but I
12 think that they'd be better served as we go
13 through the conditions and they really apply
14 to both ANCs.

15 The conditions are pretty similar,
16 I think.

17 Does the applicant have any
18 questions for the ANC?

19 MR. FEOLA: No, ma'am.

20 CHAIRPERSON MILLER: Okay. Okay.

21 Why don't we look at the proposed
22 conditions and go through them. Then we can

1 ask any questions we have about them and the
2 parties can speak to them.

3 Both ANC-3C and 3F have submitted
4 resolutions that set forth conditions at the
5 end of each of them. One is Exhibit Number 30
6 of ANC-3C. And then Exhibit Number 35 of ANC-
7 3F.

8 I don't know -- did the applicant
9 submit conditions as well?

10 MR. FEOLA: We have not.

11 CHAIRPERSON MILLER: Okay. But I
12 think those are the two documents that we all
13 should have before us, unless somebody has
14 submitted something else that they want to
15 bring to my attention?

16 MS. MONROE: Ms. Chair, you might
17 want to look at the last order, just to -- the
18 previous order in the case. You might want to
19 look at it.

20 CHAIRPERSON MILLER: Ms. Monroe is
21 also suggesting that we look at the conditions
22 that Sidwell is already under with respect to

1 the early order.

2 I have that marked as Exhibit 10
3 in my records.

4 Okay. Actually looking at the
5 time, we often notice, you know, people in the
6 community come out to speak in support of and
7 in opposition to an application. And I think
8 before we get into the conditions perhaps we
9 ought to hear from them first.

10 So, in case somebody has to, you
11 know, leave to pick up kids at school or
12 whatever.

13 Anyway, is there anybody here who
14 wishes to speak in support of the application?

15 Anybody here who wishes to speak
16 in opposition to the application?

17 Okay. All right. We're back to
18 where we were.

19 I guess what I would suggest that
20 we start with ANC-3C's conditions and then we
21 could go to any that might be separately
22 listed in 3F.

1 So, the first condition goes to
2 the increase in elevation of the football
3 field on top of the new facility above 37th
4 Street does not exceed two feet.

5 Do you have any questions about
6 that? I think we did hear some explanation
7 and if the applicant doesn't have an objection
8 to that concept.

9 Do you have any objection to the
10 way it's phrased?

11 MR. FEOLA: We have not. The only
12 comment is that the -- the -- just so the
13 Board understands. The elevation of 37th
14 Street changes pretty significantly north to
15 south going up hill actually. And so if you
16 recall the elevations of the building and the
17 berm that's there now, it's a lot higher
18 closer on the north side of the campus than it
19 is at Quebec Street.

20 And so our intention is to keep
21 the field level obviously for a lot of
22 reasons. And I just wanted to make sure

1 everybody understand, it's just not two feet
2 higher than 37th Street as it runs on a hill.
3 But it's the current elevation will not be
4 increased by two feet. Maybe that's a better
5 way to say it.

6 So, the existing elevation of the
7 field shall not be increased by more than two
8 feet.

9
10 Does that make sense? Because
11 otherwise we're going to have guys running up
12 and down -- girls and boys running up and down
13 hill which is not good.

14 CHAIRPERSON MILLER: The current
15 elevation of the fields are not being
16 increased by more two feet?

17 MR. SAXENIAN: Yes. Okay. Could
18 I just comment.

19 CHAIRPERSON MILLER: Okay.

20 MR. SAXENIAN: I'm not an expert
21 on this topic but Jim Wilson our owner's
22 representative is in the audience.

1 One thing I'm wondering is that
2 there are certain contours to the field that
3 one thing that is level is the track. And,
4 you know, if it was acceptable to the ANCs we
5 could say that the elevation of the track
6 which is at the same -- basically the same
7 level as the field, but the field may be
8 contoured slightly to allow water to drain,
9 say that the track would not rise more than
10 two feet.

11 Is that a good way to -- I just
12 think because right now the field may slope
13 north to south or east to west. It's going to
14 be hard to -- if that's acceptable to the
15 ANCs?

16 Okay. I just didn't, you know,
17 want to put too much pressure on you to like
18 come up with the language right on the spot.
19 But if you've got it, we'll take it, you know.
20 Then I'll get a chance to talk to about that
21 so that it's -- you know, this is going to be
22 an order that's going to have ramifications so

1 you want to get it right. And if there's
2 something that you want to do, you know, right
3 now. It's not a big deal. But if it's
4 something you want to do right now or do you
5 want us to leave the record open for you all
6 to carefully look at the language and submit
7 it.

8 MR. FEOLA: I think since you're
9 going to leave the record open for a few other
10 things anyway, I think it would probably be
11 better if we talk to our civil engineer and
12 make sure we get it right.

13 CHAIRPERSON MILLER: Okay.

14 So, there's basically agreement on
15 this issue and you're just going to define the
16 language. Correct?

17 Okay. Are we ready for the second
18 one?

19 Is there a concern on that
20 condition?

21 MR. FEOLA: No. On -- the experts
22 are looking at the drawings and the drawings

1 that are in your package in the application
2 are -- are -- have the two feet in them. So,
3 if the BZA approves the drawings without
4 qualification, we will satisfy the ANC's
5 condition because it won't be higher than two
6 feet than it is now.

7 CHAIRPERSON MILLER: Okay. I
8 guess -- my question is, and you all can think
9 about this too.

10 But often we don't put in a
11 condition something that they're obligated to
12 do because it's represented on the plan
13 anyway. Is that what you're saying? You're
14 obligated to do that by what's represented on
15 the plan?

16 MR. FEOLA: Right. Right.

17 The plans cover that eventuality.

18 CHAIRPERSON MILLER: Do you all
19 agree with that?

20 MS. BANTA: That's fine.

21 CHAIRPERSON MILLER: Okay. One of
22 my colleagues has brought to my attention that

1 I skipped a condition, so I'm going to go back
2 to ANC-3C's proposed condition which is that
3 any significant changes to the site plan as
4 presented to ANC-3C and Historic Preservation
5 Review Board will be subject to ANC-3C review
6 prior to considerations by the BZA.

7 I mean, it seems to me that by the
8 time we issue an order that kind of condition
9 is moot. But would you agree with that, Ms.
10 Reeves?

11 MS. REEVES: Yes.

12 CHAIRPERSON MILLER: Okay. Then
13 we can move on to the child development
14 center.

15 Enrollment shall be capped at 16
16 students.

17 Okay. Does the applicant agree to
18 that at this point?

19 MR. FEOLA: Yes. We would like to
20 have a comma and have six staff.

21 CHAIRPERSON MILLER: And the
22 faculty is six. Six faculty.

1 MR. FEOLA: Probably more staff
2 that will -- staff persons --

3 CHAIRPERSON MILLER: Staff. Six
4 staff is what you're saying? Six employees?

5 MR. FEOLA: The application has
6 for staff.

7 CHAIRPERSON MILLER: You can --

8 MR. FEOLA: So, I would say staff.

9 CHAIRPERSON MILLER: Okay. That's
10 fine. But I think what we're saying with any
11 of the ones that we're sure are staying in
12 here or whatever you can finesse your language
13 but as long as there is a general standing of
14 the party's positions on these.

15 I think at this point it wouldn't
16 hurt to bring in the Office of Planning
17 position that there should be a five-year
18 term.

19 Do you want to weigh in on that?

20 MR. FEOLA: I think --

21 CHAIRPERSON MILLER: We did hear
22 from Office of Planning excessively so --

1 MR. FEOLA: I think the applicant
2 would prefer not to see that in there for two
3 reasons.

4 One, there is a build out that's
5 required and it's going to cost some money to
6 fit this old building up for, chop it down the
7 center. And then there needs to be a
8 certainty in the program that the third year
9 if you're parent, are you going to put a kid
10 in a facility that may close in two years
11 because there's no certainty that the BZA
12 might extend it. And we don't see the impact,
13 especially at 16 and 6 faculty and staff.

14 So, we would urge the Board to not
15 put a time limit on it. And if we need to
16 come back for more, we know where you guys
17 live.

18 CHAIRPERSON MILLER: You know
19 where to find us, huh? Okay.

20 Do the ANCs have a position on
21 that?

22 MS. REEVES: Well, the ANC --

1 CHAIRPERSON MILLER: You didn't
2 take a position at your meeting. Right.
3 Okay.

4 MS. REEVES: No. But the 16 --
5 the number of 16, my understanding is that it
6 exceeds the number they need now at any rate
7 and it would be enough for the future.

8 My only concern whether it goes
9 for four or eight weeks is really -- it's
10 really, really young child. It's weeks.

11 And if you 16 eight-week children
12 -- infants, you would need more than six staff
13 or you might need more than six staff.

14 So, I would hope that the age of
15 the child will be spread out over the range.

16 CHAIRPERSON MILLER: You didn't
17 discuss at the meeting the ages of the
18 children?

19 Is that right?

20 MS. REEVES: No. We did not.
21 That's my only --

22 CHAIRPERSON MILLER: Yes. Okay.

1 VICE CHAIRMAN LOUD:

2 Clarification, Madam Chair.

3 Did you discuss at the meeting the
4 duration of the 16/6 -- 16 students/6
5 employees?

6 MS. REEVES: No. There was no
7 discussion that there was no understanding
8 that there would be a limit on it.

9 MS. BANTA: And ANC-3F asked the
10 question of future needs to come up and the
11 answer was quite similar to the one that Mr.
12 Saxenian is giving you today that right now
13 this is their anticipated need. If the future
14 demanded it, that they would revisit the
15 issue.

16 CHAIRPERSON MILLER: We often but
17 not always also address the time that they're
18 going to be at the center, you know. I think
19 you might have put that in your application.

20 Is there a time limit? I mean,
21 can it go to 8:00 at night or can it go during
22 school hours? During -- it sounds to me like

1 it's basically -- and my understanding also is
2 it just the faculty children? Just the staff
3 children and it's not open to outside? Are
4 these policies that are set?

5 MR. SAXENIAN: We are doing this
6 primarily for faculty and staff of the school.
7 If we can have the flexibility to allow people
8 who can get in without driving to fill out the
9 rest of the enrollment, we think that's a
10 benefit to the neighborhood and the
11 neighboring institutions. So, that would be
12 our preference.

13 We haven't -- I don't believe
14 we've addressed hours of operation and if
15 you'd like us to, we can come back with that?

16 CHAIRPERSON MILLER: I don't think
17 so specifically unless other Board members --
18 it's kind of like -- seems like a common sense
19 thing but it goes to pretty much the faculty
20 and staff that are there. What hours they're
21 there or their kids are going to be there it
22 sounds like. And that you would just fit

1 anybody else into that schedule.

2 So, if the community didn't raise
3 it as a concern, you don't seem to have a
4 concern at this point. Okay. Okay.

5 The next one goes to --

6 MR. HOOD: Excuse me, Madam Chair.

7 CHAIRPERSON MILLER: I'm sorry.

8 MR. HOOD: Did we ever decide --
9 maybe I missed something.

10 Did we ever decide on the time
11 frame of the five years or was that -- did we
12 rule out on that or did we ever decide on
13 that?

14 CHAIRPERSON MILLER: Okay. And
15 let me know if you want to proceed otherwise.

16 Basically, what I'm doing is using
17 this opportunity to see where there's
18 agreement from the parties and ask questions
19 from the parties.

20 But not necessarily for us to decide
21 right now.

22 MS. JOHNSON: Oh, okay. We're

1 accepting --

2 MR. HOOD: Okay. I see what
3 you're doing.

4 CHAIRPERSON MILLER: And then
5 they're going to submit it again in writing,
6 I believe, so that it's really accurate.

7 MR. HOOD: Okay. I got you.
8 Okay. I thought we were --

9 CHAIRPERSON MILLER: Okay. So, we
10 didn't decide anything.

11 MR. HOOD: -- trying to finalize.
12 Okay. Thanks.

13 CHAIRPERSON MILLER: The next ANC-
14 3C condition is that the construction entrance
15 and exists shall be located on Wisconsin
16 Avenue.

17 I think this sounds like a
18 construction management issue so I wouldn't be
19 inclined to recommend that the Board adopt it
20 but I do wonder why this isn't in the
21 construction management agreement or is it or
22 -- did you not do something in the agreement

1 and now you're trying to do it here or -- I
2 hesitate to even ask them, but --

3 MS. REEVES: I believe -- well,
4 the agreement dealt mostly with the -- the
5 agreement dealt mostly with the middle school.
6 But it does say, I believe, that all -- all
7 trucks must enter on Wisconsin Avenue. We
8 just feel there's a little bit more
9 enforcement with it if the BZA includes it in
10 their order.

11 I really feel that -- I mean, I'm
12 not a lawyer, but --

13 CHAIRPERSON MILLER: It won't get
14 anymore enforcement because we don't have
15 enforcement authority over this so -- all
16 right. I was just curious.

17 So, okay.

18 What's other staff -- other?
19 Okay.

20 Well, all right.

21 Not that -- I'm sorry. Not that
22 this Board is deciding anything at this

1 moment. Okay. That's my view.

2 Does landscaping plan on Wisconsin
3 Avenue along the existing partially
4 underground garage include numerous tall
5 evergreens to shield views of the garage from
6 the street and blackboard shielding views from
7 the street of the interior lighting inside the
8 garage?

9 MR. FEOLA: We will provide a
10 landscape plan for the Board to look at. And
11 then it could be --

12 CHAIRPERSON MILLER: Okay. Let me
13 ask you.

14 You're going to provide a
15 landscape plan that's going to reflect this
16 language. Right? That's going to show?
17 That's going to have the boards and the
18 landscaping?

19 MR. FEOLA: Yes. Yes. We have
20 the boards already in your package, but we
21 will have the landscaping and the public
22 space.

1 CHAIRPERSON MILLER: Okay. So, if
2 that is the case, sometimes -- most often the
3 Board won't put in a condition that's not
4 necessary because it's in the plan.

5 Okay.

6 MEMBER DETTMAN: Madam Chair?

7 CHAIRPERSON MILLER: Yes.

8 MEMBER DETTMAN: I thought I read
9 in the record that the blackboards was a
10 temporary measure until the vegetation was
11 mature. That's not -- okay. So, the
12 blackboards is a permanent measure?

13 MR. FEOLA: No. That's
14 permanently designed to be a fix --

15 MEMBER DETTMAN: Okay.

16 MR. FEOLA: -- to the inside of
17 the garage.

18 CHAIRPERSON MILLER: Okay. We're
19 ready to go onto the next one?

20 That Sidwell continue to provide
21 an annual report to ANC-3C and 3F due in
22 December to include enrollment, staff and

1 certification that they're in compliance with
2 BZA order.

3 MR. FEOLA: That's consistent with
4 Condition Number 7 of the last BZA order.

5 CHAIRPERSON MILLER: Okay. I'm
6 looking -- yes. That's what I was looking
7 for.

8 Why is another condition
9 necessary? My question is, doesn't Condition
10 7 in the 2004 order continue without
11 expiration?

12 MR. FEOLA: I think that we'd be
13 better served if this order has even repeating
14 some of the old conditions restates them that
15 are applicable, so it's not confusing because,
16 of course, it has the old plans, the Condition
17 Number 1 and now we have new plans.

18 So, I think it would be better
19 served to have a clean set of conditions
20 including whatever ones you think are
21 appropriate from the old order.

22 MS. REEVES: I agree.

1 CHAIRPERSON MILLER: Okay. Okay.

2 You know, I will also say this
3 that sometimes the Board does include
4 redundant conditions if they serve a purpose.
5 And if it would serve a purpose of clarifying
6 and/or give comfort to the community, that
7 there is this continuing obligation and that
8 might be a reason to include it. Okay.

9 The Sidwell hold quarterly
10 meetings open to the neighborhood during
11 construction.

12 Once again, that appears to be a
13 construction-related temporary condition that
14 we don't normally do.

15 Do you have -- anybody have a
16 response to that statement?

17 MS. REEVES: It actually is in the
18 construction management agreement. Was it one
19 of the conditions of the previous order?

20 MR. SAXENIAN: No.

21 MS. REEVES: Well, we would hope
22 that Sidwell would comply with it.

1 CHAIRPERSON MILLER: You're saying
2 it is in the construction management
3 agreement?

4 MS. REEVES: Yes.

5 CHAIRPERSON MILLER: That sounds
6 appropriate.

7 The construction management
8 agreement that you're all referring to, is
9 three a new one related to this --

10 MS. REEVES: Yes. We submitted
11 for the record.

12 CHAIRPERSON MILLER: Okay. Okay.

13 MS. REEVES: It's just amended and
14 it's amended only for the house. I think I
15 mentioned that in my testimony. We have
16 Saturday hours and extending the weekly hours
17 to be consistent with D.C. law, which goes to
18 seven.

19 CHAIRPERSON MILLER: Okay. All
20 right.

21 That Sidwell will direct all users
22 of the athletic facility to park in the

1 garage.

2 Do I have comments on that?

3 MR. FEOLA: We're happy to do that
4 fully.

5 CHAIRPERSON MILLER: The ANC
6 obviously is agreeing.

7 Okay.

8 MS. REEVES: Yes. We do.

9 CHAIRPERSON MILLER: Okay. And
10 then the basis for that would be that even
11 though there was a gymnasium approved in the
12 previous order, that I don't know, perhaps
13 based on the history there seems to be the
14 feeling that it would improve parking and
15 traffic if there was more notice.

16 Would you agree with that? I
17 mean, that's kind of what I thought I heard
18 today?

19 MR. FEOLA: Yes. I think that's
20 correct.

21 CHAIRPERSON MILLER: Okay.

22 That use of the athletic facility

1 will be limited to those activities that are
2 reasonably connected to the school or are
3 consistent with its location in a residential
4 neighborhood.

5 Does the applicant have a comment
6 on that?

7 MR. SAXENIAN: We're comfortable
8 with that language. That's what we agreed
9 with ANC-3C.

10 CHAIRPERSON MILLER: All right.

11 I just want to open this up for a
12 little bit of discussion.

13 I find it somewhat vague and I
14 think that -- we always said that we want our
15 conditions to be clear, measurable and
16 forcible, and directly related to mitigating
17 and adverse impacts.

18 And even though this sounds like,
19 you know, a very nice condition, I would hate
20 to see it and I could be exaggerating. I just
21 want to throw this out, you know, for
22 discussion, you know, as a possibility to open

1 the door for unnecessary kind of argument or
2 litigation as to whether or not an activity is
3 reasonably connected to the school. You know,
4 what does that mean and what does it mean to
5 be consistent with its location in a
6 residential neighborhood?

7 And I also want to throw out that
8 the school has a history with respect to the
9 types of activities that it has held in its
10 athletic facility and does that history show
11 that we need to have this kind of a condition?

12 MS. REEVES: It was a compromise.

13 CHAIRPERSON MILLER: That's the
14 thing. You know, we get these conditions that
15 are like compromised, you know, worked out.
16 But when we evaluate them we evaluate them
17 under, you know, specific standards.

18 MS. REEVES: Well, we don't want
19 any weddings or bar mitzvahs.

20 CHAIRPERSON MILLER: And has there
21 been weddings or bar mitzvahs in their gym?

22 Okay. That's something, you know,

1 we're not making decisions today. but if
2 there are any comments based on what I've said
3 that anybody else wants to address or, you
4 know, further feel free.

5 MR. FEOLA: Well, I guess the
6 school is -- I mean, the school's building is
7 for the school. I mean, it has, you know, a
8 whole flurry of girls and boys athletics
9 teams. It's not intending to spend this money
10 to make it a venue for outside. But at the
11 same time it is a community school and if --
12 I don't know if Jelif Boys Club has to close
13 for a few years for renovation it would seem
14 not -- it would seem appropriate to allow this
15 facility to be used for another nonprofit or
16 something like that.

17 Or if one of the public school's
18 roof leaks like it's happened in the past,
19 would it be inconsistent with this Board's
20 approval to let, you know, Dunbar High School
21 use the gym for its home games? It just seems
22 like we were trying to find this way. We're

1 not going to rent it out for bar mitzvahs or
2 parties or, you know, the Washington Wizards.

3 But, you know, maybe we can --
4 we'll try crafting some language that suggests
5 that we use it. It's for either school-
6 related activities or for a nonprofit,
7 community-based -- I don't know, let us think
8 about that and how we can --

9 CHAIRPERSON MILLER: But I will
10 and I just ask you --

11 MR. FEOLA: But that's the intent
12 is we're trying to --

13 CHAIRPERSON MILLER: I understand.
14 It's a very nice intent.

15 My point is, you know, sometimes
16 nice intentions lead to problems down the road
17 and we never want to be a party to that.

18 For instance, and again I didn't
19 participate in the previous order.

20 There was approval for a new gym
21 in that order and there isn't any condition in
22 that one that says that you can only use it

1 for school-related purpose, blah, blah, blah.
2 And then so what has been the consequence of
3 that? Has there been -- used it in an
4 inappropriate way?

5 MS. REEVES: No. I think the
6 difference is number one it's a larger
7 facility and number two, it's now located on
8 37th Street and there are residences on 37th
9 Street and on Quebec.

10 Before it was going to be next to
11 the Washington Home and although the
12 Washington Home residents certainly have been
13 affected by --

14 CHAIRPERSON MILLER: But isn't
15 that all the more reason. There aren't any
16 residents on 37th across from the Hearst
17 School. Correct?

18 MS. REEVES: Right. But there are
19 caddy-corner across --

20 CHAIRPERSON MILLER: The west.

21 MS. REEVES: On 37th at Tilden.

22 CHAIRPERSON MILLER: Oh, Tilden.

1 MS. REEVES: Up there.

2 CHAIRPERSON MILLER: Okay.

3 MS. REEVES: And they'll be able
4 to see the lights from the gymnasium.

5 MR. SAXENIAN: My understanding is
6 light leakage is pretty tightly regulated in
7 the building codes. So, they might be able to
8 see the lights, but there might be much --
9 hopefully, they won't be disturbed by them.

10 You know, I think we would be
11 concerned if there was, you know, much
12 tightening up of that further restriction than
13 what's in that language. I think we're
14 comfortable with the language as it stands.

15 CHAIRPERSON MILLER: Any other
16 comments on that?

17 Yes. Mr. Loud.

18 VICE CHAIRMAN LOUD: I think I'm
19 comfortable with it. I don't know what it
20 means. But I know it captures two very
21 specific -- seems to capture to specific
22 categories.

1 One would be where there's a
2 reasonable connection to the school and then
3 the second would seem to be, well, maybe
4 there's not a reasonable connection to the
5 school. But it's respectful of the fact that
6 it's in a residential neighborhood and
7 whatever is gong to happen there is consistent
8 with it being a residential neighborhood.

9 I think you guys have worked very
10 hard to figure out what it means and so,
11 again, I'm comfortable with it but I'm just
12 one commissioner.

13 CHAIRPERSON MILLER: We are not
14 deciding today anyway.

15 VICE CHAIRMAN LOUD: I understand.

16 CHAIRPERSON MILLER: Okay. But I
17 think we should know what these provisions
18 mean.

19 Okay. Any other comments on that
20 condition?

21 The next one is that this ANC
22 resolution be incorporated into the BZA order.

1 Have you seen the resolution
2 verbatim be incorporated in our order that the
3 Board say that we received a resolution by --

4 MS. REEVES: Construction
5 management plan be included. Oh, both. Both,
6 I guess. But the last condition there is that
7 the construction management plan be -- the
8 agreement actually be included in the BZA
9 order. We can always ask.

10 CHAIRPERSON MILLER: That's it.
11 Okay.

12 Do you have a response, Mr. Feola?

13 MR. FEOLA: To the first or
14 second?

15 CHAIRPERSON MILLER: Both. Both.
16 Both.

17 MR. FEOLA: Well, the first I took
18 that to mean the conditions. I didn't that to
19 mean the whereas's. I mean, those would be in
20 your findings of fact and we've been talking
21 about the conditions that seem to make sense.

22 The construction management as

1 this Board has told all of us is something
2 outside of its purview. So, you know, I'd
3 like not to set new ground there.

4 CHAIRPERSON MILLER: Okay. Yes.

5 I think that Mr. Feola made a good
6 distinction that we give the ANC great weight
7 and so that if the ANC proposes conditions,
8 we're going to address each of those
9 conditions with particularity.

10 So, in that sense, you know, I
11 would be favor before we, you know, vote on
12 this actually, you know, of -- of doing that.
13 We're required by law to do that. We'll do
14 that. I -- I mean, perhaps, the ANC did mean
15 literally this whole --

16 MS. REEVES: If that's the
17 standard--

18 CHAIRPERSON MILLER: Okay. And,
19 of course, the report is part of the record --
20 the whole report. Okay.

21 And with -- any other comments on
22 that?

1 MR. HOOD: Just want to go through
2 the construction management.

3 CHAIRPERSON MILLER: Yes.

4 MR. HOOD: Okay.

5 CHAIRPERSON MILLER: With respect
6 to that, again, we have said that that isn't
7 within our jurisdiction. So, if we put that
8 in BZA order it would give the impression that
9 we were going to have that enforced under our
10 authority and that would be contrary to our
11 understanding of our jurisdiction.

12 MR. HOOD: I just have a question
13 for Mr. Feola.

14 Mr. Feola, you said the Board
15 said, but what do you think? In your legal or
16 your --

17 MR. FEOLA: Whatever the Board
18 said I --

19 MR. HOOD: Oh, okay.

20 You know, I kind of knew that.
21 But let me ask you --

22 MR. FEOLA: No. I think that

1 seriously I think -- construction management
2 I think is something that is -- is appropriate
3 in the Zoning Commission's authority. I think
4 the Board because it has more limited
5 jurisdiction under the charter and under the
6 zoning regulations, I think would be in an
7 area that it would find itself in some sort of
8 legal jeopardy is somebody were to challenge
9 it. And so I don't think it is in the Board's
10 authority to delve into that.

11 There's a whole series of
12 construction code requirements and practically
13 speaking, I don't now how a Zoning
14 Administrator could enforce a construction
15 management agreement and hours of operation.
16 And is the Zoning Administrator going to be
17 out there checking when the trucks come or
18 don't come? I mean, it's just too hard to
19 manage, I think.

20 MR. HOOD: Without going into this
21 line of questioning too far, you're just
22 talking about in this case? You're not

1 talking about, for example, the PUD?

2 MR. FEOLA: No. No. I think the
3 Zoning Commission has the authority -- -- no,
4 no. The Zoning Commission --

5 MR. HOOD: No. I understood that.
6 But I mean when you said how the Zoning
7 Administrator can enforce -- you're not
8 talking about both ends? You're just talking
9 about in this case?

10 MR. FEOLA: Well, I think in both
11 cases --

12 MR. HOOD: I'm sorry to hear that.

13 MR. FEOLA: -- if it presents a
14 problem for the Zoning Administrator.

15 I think it does. Just practically
16 speaking it does, you know.

17 MR. HOOD: Do you have a problem
18 with either side, the ANC or the applicant
19 have a problem if in the order this point --
20 we know there's some kind of language. We
21 know that this agreement, construction
22 management agreement, if it pointed to it.

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1 MR. FEOLA: No. I think it's
2 appropriate to put in the findings of fact and
3 to make note of it in your decision that the
4 parties came to some -- no. I think that's
5 fine.

6 MR. HOOD: Okay. Thank you.
7 Thank you, Madam Chair.

8 CHAIRPERSON MILLER: Yes. That's
9 a good point.

10 I have a question with respect
11 going back to the child development center and
12 the cap of six faculty and staff.

13 Is that, I assume, within the cap
14 that was put on the faculty and staff in the
15 2004 order? It's not an addition to the cap
16 is it?

17 MR. FEOLA: It was our intention
18 that be an addition.

19 CHAIRPERSON MILLER: It was your
20 intention to be an addition?

21 MR. FEOLA: Yes.

22 MR. SAXENIAN: Yes. The 2004

1 order actually did not increase the cap, that
2 we left the faculty staff cap where it was
3 from the prior order, 1997, I think, but
4 that's really what we've calculated that we'll
5 need going forward to operate this school
6 itself and so we think that to operate the
7 child development center we need an additional
8 six and we calculate that --

9 CHAIRPERSON MILLER: Okay.

10 MR. SAXENIAN: -- based on the age
11 distribution that we expect to have of the
12 children.

13 CHAIRPERSON MILLER: Okay. So,
14 it's -- well, the child development center, is
15 it a separate entity, Sidwell Friends School?

16 I mean, for instance, when we're
17 thinking about this -- these six employees, I
18 can see why you might be asking for six more
19 because they're not the six that were included
20 in your assessment of the needs for teaching
21 at Sidwell. Okay.

22 And my question is, should this be

1 perceived as an addition to Sidwell's faculty
2 number or is this, you know, just something in
3 and of itself that goes with child development
4 center?

5 MR. SAXENIAN: We'd like it to be
6 an addition. We think that if we don't get
7 the additional capacity, then we won't have
8 enough overtime to run our regular school
9 program. Is that -- sorry.

10 CHAIRPERSON MILLER: No. I mean,
11 I know where you get the six. I was just --
12 it's just how we word it, just curious. How
13 we perceive it as an addition to Sidwell
14 faculty number or something separate?

15 MR. FEOLA: Well, I think what we
16 were -- we wanted to make sure the Board
17 understood that we weren't asking to increase
18 the faculty staff or the school's program,
19 that if, in fact, this child development
20 center doesn't ever come to fruition or
21 Sidwell decides it's not worth running anymore
22 because of insurance or whatever, that those

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1 six staff people would also go away with the
2 16 kids. And we're not asking to make it 196
3 and then drop the -- you know what I mean?
4 So, we were trying to keep it separate so that
5 the Board understands that it's really tied to
6 the CDC and not to anything else.

7 But ultimately, that will be 196
8 people that Sidwell would be allowed to have
9 on campus working on its campus during the
10 day.

11 CHAIRPERSON MILLER: Well, and
12 this may be in the application. I just don't
13 remember. But the child development center is
14 it just a part of the school or is it
15 something that is, you know, incorporated as
16 a child development center?

17 Do you know what I mean?

18 MR. FEOLA: Or is it outsourced or
19 is it --

20 CHAIRPERSON MILLER: Does it have
21 it's own organizational business, license? I
22 mean, I don't know.

1 MR. FEOLA: It has it's own
2 license. It has to, but I don't --

3 CHAIRPERSON MILLER: Is it a
4 separate entity within the school or is it
5 just the school having this service?

6 MR. SAXENIAN: Well, I mean, the
7 legal structure under which we operate it I
8 think is something that we haven't
9 predetermined. It could shift over time.

10 When we opened our Bethesda child
11 development center we weighed the pros and
12 cons of sort of having it be under its own
13 legal umbrella or be part of the school and we
14 ended up for simplicity sake in that case
15 making it part of the school.

16 I guess it's -- we would, you know
17 -- I supposed we'd like the flexibility to
18 sort of make those choices on an ongoing basis
19 as the -- you know, circumstances dictate.

20 CHAIRPERSON MILLER: Okay. I
21 just, you know, I was just wondering on the
22 weight how are we evaluating this? You know,

1 how does it affect your faculty numbers?

2 That's all. Okay.

3 MR. FEOLA: That's a good
4 question.

5 CHAIRPERSON MILLER: I think we've
6 covered ANC-3C's proposed conditions if I'm
7 not mistaken.

8 Ms. Reeves, did I miss anything?

9 MS. REEVES: I don't believe so.

10 MS. BANTA: ANC-3F's conditions
11 are identical. I was just trying to do a
12 comparison here.

13 CHAIRPERSON MILLER: Okay.

14 Any other questions by Board
15 members on the conditions?

16 Okay. I think then where we are
17 in our proceeding is that closing arguments by
18 the applicant.

19 MR. FEOLA: Just very briefly,
20 Madam Chair. I think we -- we believe we've
21 shown that this application while it does
22 shift uses around on the campus and it does

1 add a child development center to the
2 property, if it's approved it will have a
3 negligible impact if at all on neighboring
4 properties due to noise, objectional
5 conditions, number of students and the like,
6 since those things aren't changing.

7 And we think the CDC is something
8 that the city's Comprehensive Plan encourages
9 employers to do. We hope this will become a
10 model for other schools and other large
11 institutions because it does keep our young
12 faculties and staffs in the workforce without
13 putting burdens on them -- unnecessary burdens
14 on them.

15 So, I think with that we'll just
16 ask the Board to take it under consideration
17 and ask for your vote of approval.

18 CHAIRPERSON MILLER: Okay. Is it
19 your opinion that the change in the plans with
20 respect to the athletic facility going
21 underground actually would decrease any
22 adverse impacts to the neighborhood from the

1 plan that previously was approved?

2 MR. FEOLA: There is one major
3 decrease and that is the potential noise
4 impact on the Washington Home and the
5 residents of the Washington Home. It is an
6 institution but there are a lot of elderly
7 people that live there. And it was a concern
8 last time going around and anybody who has
9 spent anytime in a gym, a bunch of basketballs
10 bouncing up and down, up and down, up and
11 down, and no matter how you insulate a
12 building, noise emanates. And so by putting
13 it underground you take all that internal
14 noise that would normally be found in a gym
15 away.

16 So, I think that does a big -- is
17 a big plus in that sense. Everything else I
18 think is pretty much a wash.

19 MR. SAXENIAN: May I just add --

20 CHAIRPERSON MILLER: Yes.

21 MR. SAXENIAN: I think also the
22 other big benefit is moving the meeting house

1 away from Zartman House, the national
2 historical building. So, I think that's a big
3 benefit as well.

4 One other sort of summary point I
5 would add is that I do think if it's possible
6 to remove the five-year constraint on the
7 child development center, I think that does
8 allow us to plan more into the future. I
9 would be hard for people to put their children
10 into the center not knowing how long it's
11 going to be around for.

12 CHAIRPERSON MILLER: And the
13 reason for that is -- would that be because
14 they think it's in the better interest of
15 their child to have continuity or what? Is
16 that it or --

17 MR. SAXENIAN: Interest to the
18 child of the adult. And it's also, you know,
19 the school does as Mr. Feola pointed out is
20 going to be undertaking some investment to
21 bring this on line, not only in terms of
22 facilities but also staffing up and people's

1 jobs will be a stake here. It would be
2 difficult to fill positions if we can't
3 guarantee that they're going to be around in
4 a year.

5 CHAIRPERSON MILLER: It's my
6 understanding and I'm not putting my fingers
7 on it at this point but that the Washington
8 Home has submitted a letter in support of the
9 application?

10 MR. FEOLA: That is correct.

11

12 CHAIRPERSON MILLER: As has the
13 Hearst School?

14 MR. FEOLA: Yes, ma'am.

15 CHAIRPERSON MILLER: Okay.

16 Anything else anybody needs or
17 wants to add for the record?

18 Okay. My understanding is that
19 we're going to be leaving the record open just
20 for a couple of things.

21 One is revised landscaping plan
22 that will reflect the -- what is it?

1 MR. FEOLA: The Wisconsin Avenue
2 frontage --

3 CHAIRPERSON MILLER: The
4 blackboard.

5 MR. FEOLA: -- of the parking
6 garage.

7 CHAIRPERSON MILLER: Right. And
8 the landscaping. And that's going to be the
9 same one that's being submitted to HPRB? Is
10 that correct?

11 MR. FEOLA: Yes.

12 CHAIRPERSON MILLER: Okay. Also,
13 Office of Planning is going to be, I believe,
14 requesting a report from EMS, the fire
15 department on the circulation question.

16 And the parties are going to
17 resubmit proposed conditions based on their
18 discussion today.

19 Is there anything else anybody
20 remembers that we wanted to leave the record
21 open for?

22 MS. REEVES: Will we have enough

1 time to comment on them after they are
2 submitted?

3 CHAIRPERSON MILLER: What do you
4 want to comment on?

5 MS. REEVES: The EMS plan and the
6 landscaping plan. Or the fire department's
7 report and the landscaping plan.

8 CHAIRPERSON MILLER: Okay. Do you
9 mean enough time for the ANC to have a meeting
10 or do you mean for --

11 MS. REEVES: It depends what the
12 timing is. It's better -- a lot better as the
13 ANC. Yes.

14 CHAIRPERSON MILLER: Well, let's
15 see whether we can accommodate --

16 MS. REEVES: But at least give us
17 time to review it.

18 CHAIRPERSON MILLER: When are the
19 ANC meetings?

20 MS. REEVES: The third Monday of
21 every month.

22 CHAIRPERSON MILLER: And how about

1 3F?

2 MR. FEOLA: Same day.

3 CHAIRPERSON MILLER: Okay. The
4 landscaping plan is only at issue with respect
5 to the buffer being shown that we discussed
6 to, I think, and correct me if I'm wrong,
7 whether that is going to reflect the condition
8 that ANC-3 proposed.

9 MS. REEVES: Right.

10 CHAIRPERSON MILLER: And ANC-3F.

11 MS. REEVES: Right. And if you
12 are not going to include that as a condition,
13 then we should have the opportunity to --

14 CHAIRPERSON MILLER: You want to
15 make sure that it actually reflects what those
16 words say. Yes. Okay.

17 And then --okay.

18 So, when will this landscaping
19 plan be ready?

20 MS. REEVES: Our architects are
21 saying they can have it done by the end of the
22 week. This week, which is now only three days

1 away. Okay.

2 I mean, they've been working on
3 this. This is not something new. We are
4 aware of it.

5 We can provide that to the Board
6 and to the ANCs by close of business on
7 Friday.

8 CHAIRPERSON MILLER: Let me ask
9 the Office of Planning when -- who long do you
10 think it will take for us to get a report from
11 the fire department?

12

13 MS. THOMAS: God help us.

14 I'm going to try my best, but
15 suffice it to say might just be two lines.
16 You know, I don't want to predict, but just
17 from the past experience of having to try to
18 contact somebody in fire as to who it is to
19 write it would be another thing.

20 So, I'll try within a week.

21 MR. FEOLA: Madam Chair?

22 MS. THOMAS: But I don't know.

1 MR. FEOLA: Let me just say that
2 there is an improved emergency access plan
3 that accesses the site for an emergency
4 vehicle from Quebec Street and it goes across
5 the football field to get to the buildings as
6 an alternative.

7 What we have been working with the
8 community is to eliminate that, and so that --
9 and what we've asked then is the fire
10 department to -- because they've already
11 approved that one in 2004. Now, we've asking
12 them to reconsider because we're moving the
13 gym away from the Washington Home and so
14 there's no new buildings over on the north
15 side of the property and the Meeting House to
16 letting us just use the current physically
17 build emergency access.

18 So, it's not -- it's not like we
19 won't have emergency access. We'll either
20 have the one that's been approved in 2004 or
21 we'll have a better one in terms of where the
22 community is coming from and the one we're

1 trying to accomplish if we can get the sign
2 off.

3 CHAIRPERSON MILLER: And are you
4 required to have an approved plan under some
5 other law?

6 MR. FEOLA: Under the fire code,
7 absolutely.

8 CHAIRPERSON MILLER: Under the
9 fire code.

10 MR. FEOLA: Yes.

11 CHAIRPERSON MILLER: So, this may
12 not even really be a zoning-related issue. Is
13 it? I'm throwing that out as a -- yes?

14 MS. THOMAS: Right. Well, when
15 they go for other building permit phases
16 that's when they review all the -- that's when
17 they typically review all that now.

18 MR. FEOLA: And that's typically
19 what the fire department tells us. It looks
20 good in concept if you come back with a permit
21 application that looks like this. We probably
22 will approve it, but they won't give us this

1 kind of preliminary -- at least in the private
2 sector.

3 MS. THOMAS: I mean, I will
4 definitely try to assist. But if you give me,
5 you know, all what you have and what the
6 change, what -- I'd be happy to do that and
7 push that through.

8 CHAIRPERSON MILLER: Okay. I just
9 also want to understand --

10 MS. THOMAS: Maybe in two weeks?

11 CHAIRPERSON MILLER: You know,
12 that's fine. Yes. Okay.

13 Is that fine with the applicant?

14 MR. SAXENIAN: Let me make a
15 comment a minute.

16 I just wanted to underscore what
17 Mr. Feola said. The ANCs and the neighbors
18 and the school are all of one mind. We would
19 all like to simplify the emergency access
20 plan. And we think that because the buildings
21 have moved that -- and based on our
22 preliminary discussion with the fire marshall,

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1 that it's going to be possible to do that.

2 I'm puzzled about the concern that
3 DDOT expressed earlier and I think it runs
4 contrary to the views that we've heard from
5 the ANCs as well as the immediate neighbors.

6 So, to the extent -- I don't know
7 whether this is zoning matter or not, but to
8 the extent that it's not a zoning matter, I
9 would hope that we can take it off the table.

10 Well, we can get it in the record,
11 but I just want to understand what you're
12 saying and have the other Board members
13 understand it too.

14 The fact that you're relocating
15 the athletic facility to this new location
16 underground, does that trigger some new
17 requirement with respect to an emergency plan
18 access route?

19 MR. FEOLA: Well, yes. When we
20 apply for a building permit for the
21 underground gym, we would have to show how
22 that meets emergency access. I think what

1 Mike was saying is that because it's not right
2 on 37th Street, not tucked inside the campus
3 on a private property line, the fire
4 department can get to the gym, no problem and
5 they'll just go in off of 37th Street and the
6 whole thing.

7 MR. SAXENIAN: Yes. They had two
8 concerns they voiced in 2004.

9 One was that the location of the
10 new gym on the north edge of the campus was
11 going to create a pinch point for emergency
12 access. That pinch point is now removed
13 because the gym is no longer there.

14 And the second was, I believe,
15 that they wanted to be able to get around to
16 the back of the Meeting House and the Meeting
17 House no longer is at its originally proposed
18 location.

19 So, I think, you know, we're
20 optimistic both based on the logic and based
21 on our preliminary discussion with the fire
22 marshall that they'll approve a scaling back

1 of the emergency access. But we recognize
2 that if they don't, we'll have to build out
3 the full -- book the full plan as envisioned
4 in 2004 or otherwise dictated by the fire
5 marshall.

6 CHAIRPERSON MILLER: Okay. It
7 sounds like at the permit building stage
8 you're going to be stopped in any event to
9 make sure you comply with that. Okay.

10 Also, does that affect neighboring
11 properties or just Sidwell?-

12 MR. FEOLA: It's solely for
13 Sidwell. It's Sidwell facilities.

14 MS. REEVES: That's correct, but
15 under the 2004 plan, the fire marshall that
16 they needed an exit, an egress, on Quebec
17 Street and that is where the problem arose
18 because people who live across the street did
19 not want to lose parking on the north side of
20 the street and they would if the exit had to
21 be there, they would lose parking spaces along
22 there.

1 And also there just is not enough
2 room for a truck to turn. I mean, they
3 probably have no parking on that street in
4 order to get a fire truck out of there it's so
5 tight.

6 So, -- but that issue is gone now
7 that they have made these changes.

8 CHAIRPERSON MILLER: Okay.

9 MS. REEVES: I don't think it is
10 an issue at this point.

11 CHAIRPERSON MILLER: You don't
12 think it's an issue?

13 MS. REEVES: No.

14 CHAIRPERSON MILLER: Applicant
15 doesn't think it's an issue?

16 Does the Office of Planning think
17 it's an issue?

18 MS. THOMAS: I mean, just the mere
19 fact that -- you meet fire code now. Right?
20 Okay. So, fire trucks could get anywhere.

21 If you move, you've going to put
22 something underground and it's going to be

1 accessed by the same routes and same
2 underground situation, but the traffic -- what
3 is the issue with fire truck?

4 MR. FEOLA: The fire department
5 took that position. I mean, if you look at
6 the site plan, where you see those two tennis
7 courts on Sensner, that's where the old -- the
8 new gym was proposed and they were concerned
9 that they couldn't get around that potential
10 new building.

11 Well, there's no -- no facility
12 there. It's all surface. And when the new
13 Meeting House was next to Zartman, so there's
14 really no reason to have the Quebec Street
15 access that Ms. Reeves has talked about.

16 So, anyway, it make logical sense
17 and they agreed. They just won't put it in
18 writing.

19 MR. HOOD: I get very leery of
20 folks when won't put something in writing.
21 That's just -- it just doesn't hold water with
22 me.

1 And I'll tell you just I know. I
2 know.

3 MR. HOOD: -- I'm not going to go
4 on a soapbox. But anyway -- and I think we
5 should leave stuff to -- to me, the way I like
6 to deal with it is leave it to the experts
7 even though, you know, I think we still should
8 try to go after DDOT. And I will tell you,
9 Mr. Feola, there's some fire chiefs who have
10 retired, you know, some of these heights we
11 put on these buildings, they'll tell you.
12 They don't know how they're going to get up
13 them.

14 So, we need to leave it to the
15 experts, I think. The subject matter experts.

16 MS. THOMAS: I'll get the letter
17 out of them.

18 MR. HOOD: At least we can make an
19 attempt. That's all. And I'll feel better if
20 it's in the record.

21 CHAIRPERSON MILLER: Okay. We'll
22 leave the record open for that and try to get

1 it within two weeks and then we'll see whether
2 it's relevant to our analysis or not.

3 Okay. So, what kind of a schedule
4 to do these things?

5 You said two weeks.

6 MS. THOMAS: Yes. I'll try two
7 weeks. You know, leave the next week -- the
8 remainder of this week and the following week
9 after next week.

10 CHAIRPERSON MILLER: When is that?

11 So, the third Monday in the month,
12 is that yesterday? Are we talking about --
13 was that yesterday?

14 The next ANC meeting would be
15 when?

16 Okay. When is the next meeting
17 though?

18 All right. Let me help you. See
19 if I can looking at our Tuesday schedule and
20 go back.

21 The 18th? No. I'm not sure
22 either. I mean, we're really talking about

1 somebody making sure that the landscaping plan
2 reflects that. Okay. Right. Okay. Okay.

3 I'm not sure that the -- I'm not
4 sure that the law requires that. I think that
5 if you're doing something consistent with your
6 resolution and it's really nothing new. Okay.

7 MS. BAILEY: Madam Chair --

8 CHAIRPERSON MILLER: yes.

9 MS. BAILEY: -- the next ANC
10 meeting is going to be February 19th because
11 the February 18th is a holiday. That's
12 President's Day.

13 CHAIRPERSON MILLER: Okay. Okay.

14 So, if we were to wait until then,
15 then I mean I guess that we could schedule
16 this for decision on March 4th at our regular
17 public meeting or if there's an urgency, we
18 could back to February 26th. Of if there's a
19 greater urgency, we could go back earlier on
20 the premise that a full ANC meeting is not
21 necessarily required for them to address these
22 pretty small points.

1 One is, we're not sure the EMS
2 report is even relevant. And, two, the others
3 are just -- we talked about conditions whether
4 or not you want to refine any language that
5 we're talking about or keep the same,
6 whatever.

7 Is the applicant in a hurry or is
8 March 4th --

9 MR. FEOLA: Applicants are always
10 in a hurry.

11 CHAIRPERSON MILLER: Yes. I know.

12 MR. FEOLA: When has anybody ever
13 has --

14 MR. SAXENIAN: I think it depends
15 on how long the written order will take?

16 MR. FEOLA: That was going to be
17 my question. Are you considering a summary --

18 MR. SAXENIAN: Get a summary
19 order.

20 MR. FEOLA: -- that --

21 CHAIRPERSON MILLER: If there is
22 no objection by a party then we will issue a

1 summary order and I believe that the ANCs are
2 in support. So, there would be a summary
3 order unless I hear otherwise.

4 But that's pretty quick.

5 MR. FEOLA: In that case I think
6 we can --

7 CHAIRPERSON MILLER: That's the
8 same week.

9 MR. FEOLA: Right. Then we can
10 wait until March 5th and --

11 CHAIRPERSON MILLER: Okay.

12 MR. FEOLA: -- be comfortable.

13 CHAIRPERSON MILLER:

14 MR. FEOLA: With our schedules --
15 planning schedules.

16 CHAIRPERSON MILLER: March 4th.

17 Okay.

18 Ms. Bailey, then we would have
19 March 4th as the Board's decision date on this
20 case and let's set some other dates. I
21 believe that -- well, the applicant is going
22 to be providing the revised landscaping plan

1 when?

2 I mean, I know you said the end of
3 week. Do you want to give yourself more time
4 than --

5 MR. FEOLA: Well, now that we have
6 a little bit more time --

7 CHAIRPERSON MILLER: Right.

8 MR. FEOLA: -- my guess is we'd
9 like to have a couple of weeks, I guess.

10 The ANC meeting is on February
11 19th, is that --

12 MS. REEVES: Yes. But we'd like
13 to have it -- if we could have it before
14 then --

15 MR. FEOLA: I understand.
16 Understand.

17 MR. SAXENIAN: Why don't we say
18 February 4th?

19 MR. FEOLA: When is your planning
20 and zoning meeting?

21 MS. REEVES: The first Monday in
22 February.

1 MR. SAXENIAN: February 4th, I
2 think.

3 MS. REEVES: Okay. Can't we get
4 it by February 1st?

5 MR. FEOLA: Yes. Yes. February
6 1st would work.

7 MS. REEVES: Will it be ready?

8 MR. FEOLA: Yes. February 1st
9 would work.

10 MR. SAXENIAN: You got to be
11 careful what you say.

12 CHAIRPERSON MILLER: Okay. So
13 February 1st is the deadline for the applicant
14 to submit the revised landscaping plan to the
15 ANC.

16 MR. FEOLA: We can file it with
17 the Board --

18 CHAIRPERSON MILLER: You can
19 submit the plan to us with the proposed
20 conditions. I mean, when do you want to do
21 that? Do you want that the same time? I
22 mean, would that be all right?

1 MR. FEOLA: Sure.

2 CHAIRPERSON MILLER: They are not
3 too much different from what we discussed.

4 MR. FEOLA: No.

5 CHAIRPERSON MILLER: So, okay.
6 And proposed conditions and then what's two
7 weeks from -- around two weeks from now with
8 respect to the deadline for the EMS report?
9 Ms. Bailey?

10 MS. BAILEY: Two weeks from
11 February --

12 CHAIRPERSON MILLER: No. From
13 today.

14 MS. BAILEY: Two weeks from today.

15 MR. FEOLA: February 5th.

16 CHAIRPERSON MILLER: February 5th.
17 February 5th is the date you can okay, count
18 on a report if there's going to be one.

19 Okay. And then a date for the ANC
20 to respond and the applicant to respond.

21 The applicant would be responding
22 to the EMS report.

1 Do you want to respond to the --
2 I'm sorry, no. Respond to their proposed
3 conditions? Do you want to -- I just don't
4 think there's going to be too much different
5 here but there may be a little bit.

6 MR. FEOLA: I assume their
7 proposed conditions are the ones that they put
8 in the resolution. You guys don't anticipate
9 changing. No. So, we will -- we wouldn't
10 need to respond. They're already in the
11 record.

12 Our response will be our proposed
13 -- our proposed conditions to the extent that
14 they are different.

15 CHAIRPERSON MILLER: Okay. And I
16 think -- I think we fully addressed them in
17 this hearing but for instance. If you were to
18 respond to our discussion today and change the
19 one about the type of activities that would be
20 allowed in the new facility.

21 You know, I think that -- I don't
22 think it's going to change anything

1 substitutive, but I want to start this again
2 because I don't think you should have to go
3 back to the ANC. We've already addressed
4 these substitutively, so we have your language.
5 You haven't given us language. If the
6 applicant wants to submit some different
7 language, we'll consider that in conjunction
8 with the ANC's proposed conditions. And I
9 think there's been a full discussion on both
10 so there doesn't need to be another response
11 to your conditions.

12 Okay. So, we're almost done with
13 this briefing schedule.

14 MS. REEVES: We'll be able to
15 respond to them. Right? Because he's doing
16 the conditions? Is that right? That's the
17 way I perceived it.

18 MR. SAXENIAN: I think we're fine
19 with the ANC resolution. The conditions in
20 the ANC resolution. So, maybe we can just
21 avoid responding anywhere.

22 CHAIRPERSON MILLER: Well, I was

1 hoping we'd get some refinement to some of the
2 language with respect to representing
3 accurately how the two feet elevation is or
4 something like that.

5 MR. FEOLA: If the ANC wants to
6 respond, that's fine.

7 CHAIRPERSON MILLER: Okay.

8 MR. FEOLA: You know, that's fine.

9 CHAIRPERSON MILLER: I just
10 don't--

11 MR. FEOLA: But we're not
12 anticipating making huge new changes.

13 CHAIRPERSON MILLER: Right.
14 Right.

15 MR. FEOLA: I mean, we hope to
16 make the language on the two feet and just
17 make it read more logical, that's all.

18 MS. REEVES: Is that the only one
19 that's going to be --

20 MR. FEOLA: I have to go back and
21 look, but I think so. Yes.

22 MR. MOY: Madam Chair? If I can

1 interrupt for just a second?

2 It sounds like the applicant's on
3 par with the ANCs. Maybe they can just go
4 ahead and work together on a mutual --

5 MR. FEOLA: That's fine.

6 MR. MOY: -- that removes a step.

7 CHAIRPERSON MILLER: Yes. Because
8 I don't think there are going to be any
9 substitutive changes that require --

10 MS. REEVES: Right.

11 CHAIRPERSON MILLER: -- that an
12 ANC meeting on it, you know. Any changes --
13 yes. Okay.

14 MS. REEVES: No.

15 CHAIRPERSON MILLER: Okay. So, we
16 would be very happy if you'd submit a joint
17 proposed conditions. If you diverse in anyway
18 and you want to indicate that, that's fine.

19 Okay.

20 MS. REEVES: And when do you have
21 to respond to the landscaping plan?

22 CHAIRPERSON MILLER: Okay.

1 There's the EMS report that's come on the 4th
2 and then the landscaping which you're going to
3 get deferred. So, any responses to the EMS
4 report, Ms. Bailey, when should they be in?

5 MS. BAILEY: I would suggest
6 February 26, Madam Chair, because that's a
7 week after the ANC's meeting. The ANC is
8 anticipated to meet on the 19th and then I am
9 suggesting that they respond on the 26th, a
10 week later.

11 CHAIRPERSON MILLER: I think
12 that's a god idea since we scheduled this to
13 accommodate the ANC meeting in the event that,
14 you know, this is something that you feel
15 needs to be addressed, you know, to the whole
16 community.

17 I don't think -- we don't want to
18 blow this issue up though because we're not
19 even sure it's relevant. But it will give you
20 that opportunity.

21 We set this February 1st deadline
22 with respect to landscaping. Do you all have

1 a different deadline you want to do with
2 respect to proposed conditions? From what I
3 heard Mr. Moy say to you and you seem to agree
4 was that you all are going to try to just
5 address it together.

6 MS. REEVES: If Mr. Feola can just
7 sent -- e-mail it to me, we'll look it over
8 and I'll e-mail him back so that we will have
9 something that we both agree on.

10 CHAIRPERSON MILLER: Maybe we
11 should have everything in on the 26th. I
12 mean, you serve, the applicant can serve. I
13 mean, if you all feel differently up here, but
14 the applicant can serve the ANC that needs to
15 look at this, you know, by February 1st. You
16 can discuss the proposed conditions. You can
17 get the report on the 4th.

18 The Board doesn't really need
19 these thing piecemeal. We can look at, you
20 know, all responses to the EMS report,
21 landscaping and conditions on the 26th. How
22 does that sound?

1 MS. REEVES: As long as the
2 landscaping comes to us before that.

3 CHAIRPERSON MILLER: Before then.
4 Okay. Well, we can put that in that the
5 applicant will serve you with the landscaping
6 plan by February 1st.

7 MS. REEVES: February 1st.

8 CHAIRPERSON MILLER: And then you
9 will -- and they can serve us with the
10 landscaping plan then or you can serve it, we
11 don't care, you can serve by the 26th with
12 your -- with the rest of your whole submission
13 on any different language in the proposed
14 conditions and on a response to the EMS
15 report.

16 Okay. Ms. Bailey, do you want to
17 repeat that? Do you have it?

18 MS. BAILEY: The applicant is to
19 serve the ANC -- both ANCs by February 1st.

20 The Office of Planning is to
21 coordinate and file a report from the fire
22 department by February the 5th.

1 The ANC is scheduled to meet on
2 February 19th.

3 All parties are to respond and
4 file on landscaping plans, etcetera, by
5 February 26th and the Board will consider a
6 decision on March 4th.

7 CHAIRPERSON MILLER: What I want
8 to say is that the February 1st deadline that
9 you talked about is just for the landscaping--
10 oh, no, it isn't. It is the landscaping plans
11 and conditions.

12 MR. FEOLA: Conditions.

13 CHAIRPERSON MILLER: Okay.
14 Landscaping plan and proposed conditions.

15 We'll serve on the ANC February
16 1st. Okay.

17 EMS report you have on February
18 5th, that's fine.

19 That will be served on all the
20 parties and the Board and then on February
21 26th on the Board will be the -- right.
22 Landscaping plan, responses to that and

1 responses to the EMS report. And we'll have
2 a decision right on the 5th of March? 4th of
3 March. Okay.

4 Is there any questions to that?

5 Okay. Any other questions?

6 MR. FEOLA: No.

7 CHAIRPERSON MILLER: Okay. Then I
8 think we're finished.

9 MR. FEOLA: Thank you for your
10 time and energy.

11 CHAIRPERSON MILLER: Thank you
12 very much.

13 MR. SAXENIAN: Thank you.

14 CHAIRPERSON MILLER: I do want to
15 give you credit though also for the middle
16 school building. If anybody hasn't seen that
17 building, I know you do offer tours to the
18 public and everything and it is phenomenal.
19 Yes.

20 Okay. Thank you very much.

21 CHAIRMAN FEATHER: After the
22 decision in this case maybe the Board would

1 like to take a tour.

2 CHAIRPERSON MILLER: Right.

3 I have a tour myself, but yes.

4 Ms. Bailey, do we have any other
5 business on the agenda for today?

6 MS. BAILEY: No, Madam Chair,
7 that's it.

8 CHAIRPERSON MILLER: Okay. Then
9 this hearing is adjourned.

10 (Whereupon, the above matter was
11 concluded at 5:57 p.m.)

12

13